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NOTE

There are two Extraordinary issues to the Official Gazette, Series I No. 20 dated 12-8-2010, as follows:—

- (1) Extraordinary dated 13-8-2010 from pages 793 to 794 regarding modification of the timings of the GOA SANDS ONLINE Scheme— Not. No. JS(BUD)/32/2010 from Department of Finance ((Budget Division).
- (2) Extraordinary (No. 2) dated 16-8-2010 from pages 795 to 796 regarding Amendments to entries of Schedule I— Not. No. 30/1/2006-Fin(R&C)(13) from Department of Finance (Revenue & Control Division).

INDEX

Department	Report/Notification	Subject	Pages
1. Goa Legislature Secretariat	LA/LEGN/2010/1799	Second Report – Select Committee on the Goa Co-operative Societies Act, 2010.	797
2. Inland & Waterways Captain of Ports Captain & ex officio Joint Secretary	Not.- CP/H.S.O 138/2010	Alteration of the Port limits – Tiracol and Talpona.	873
3. Personnel Joint Secretary	Not.- 1/25/86-PER(P. F. I.)	R. R. – Commercial Tax.	874

Goa Legislature Secretariat

LA/LEGN/2010/1799

The following Report which was presented in the Legislative Assembly of the State of Goa on 6th August, 2010 is hereby published for general information in pursuance of Rule-231 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

FIFTH LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

SECOND REPORT

OF

SELECT COMMITTEE ON THE GOA CO-OPERATIVE SOCIETIES ACT, 2001

Presented to the House on 6th August, 2010

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL
PORVORIM-GOA

CONTENTS

COMPOSITION OF THE COMMITTEE	798
INTRODUCTION	798
REPORT	799
ANNEXURE – I	799
ANNEXURE – II	867
ANNEXURE – III	867
ANNEXURE – IV	871
ANNEXURE – V	872
ANNEXURE – VI	872
ANNEXURE – VII	873

COMPOSITION

COMPOSITION OF THE SELECT COMMITTEE ON THE
GOA CO-OPERATIVE SOCIETIES ACT, 2001

CHAIRMAN

Shri Ravi Naik

Hon'ble Minister for Co-operation

MEMBERS

Shri Nilkanth Halarnkar

Shri Pandurang Madkaikar

Shri Francis D'Souza

Shri Laxmikant Parsekar

Shri Deepak Dhavalikar

Shri Aleixo Reginaldo Lourenco

LEGISLATURE SECRETARIAT

Shri J. N. Braganza

Secretary

Shri N. B. Subhedar

Joint Secretary

Shri H. F. Noronha

Section Officer

INTRODUCTION

I, the Chairman of the Select Committee on The Goa Co-operative Societies (Amendment) Bill, 2008 (Bill No. 37 of 2008), having been authorized by the Committee to present this Second Report, do present the Report to the Goa Legislative Assembly.

2. The Committee elicited suggestions from the public through advertisement published in the local dailies. Suggestions were also invited from the Registrar of Co-operative Societies.

3. The suggestions were forwarded to the Department concerned and to Law Department and their comments were elicited.

4. The Committee would like to place on records its deep appreciation of hard done by the Secretary and staff of the Legislature and the co-operation rendered to it by the Registrar of the Co-operative Societies and the Department of Law for ably assisting the Committee in the discharge of its work.

Porvorim-Goa
19 July, 2010

SHRI RAVI NAIK
Chairman

SECOND REPORT

The Goa Co-operative Societies (Amendment) Bill, 2008 was introduced on 25th August, 2008. It was taken up for consideration on 27th August, 2008 and referred to a Select Committee of the House. The Composition of the Select Committee has been specified in the motion for reference of the Bill to the Select Committee.

2. The Committee was directed to study all the amendments proposed to be carried out to the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001) and was given a mandate to present its Report by the 29th of August, 2008 to the House.

3. The Select Committee presented its report on the Goa Co-operative Societies (Amendment) Bill, 2008 on 28th January, 2009.

4. The Goa Co-operative Societies (Amendment) Bill, 2008 Bill No. 37 of 2008 as reported by the Select Committee was reconsidered and passed on 5-02-2009. It received assent of the Governor on 12-03-2009 as Act No. 3 of 2009.

5. The Committee than decided to thoroughly examine the working of the Goa Co-operative Societies Act, 2001 (Act No. 36 of 2001) in further sitting and present the 2nd Report. (Para 8 of 1st Report 2009).

6. The Chairman moved on 22nd July, 2009, a motion in the House for extension of time for presentation of report (The motion for extension of time is at Annexure-II).

7. The Committee invited suggestions from the public and from the Registrar of Co-operative Societies. The Committee went through the suggestions at its sittings held on 14th September, 2009, 16th October, 2009, and 13th May, 2010 and prepared the draft model Co-operative Societies Act. (The suggestions can be seen at **Annexure III** and the minutes of the meetings may be seen at **Annexure-IV, V and VI**).

8. At its meeting held on 9th June, 2010 the Committee adopted the Draft Model Goa Co-operative Societies Act and took the decision to present the same to the House at its ensuing session (The minutes of the meetings may be seen at **Annexure-VII**).

The Draft Model Goa Co-operative Societies Act is at Annexure-I. The parts highlighted and italics are the changes suggested to the Goa Co-operative Societies Act, 2001.

The Committee recommends that a Bill on the Draft Model Act be introduced in the House at the earliest.

ANNEXURE - I

GOVERNMENT OF GOA

THE GOA CO-OPERATIVE SOCIETIES
ACT, 2009

CONTENTS

Preamble

CHAPTER – I

Preliminary

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Co-operative principles and bye-laws.

CHAPTER – II

Registration

4. Registrar and his subordinates.
5. Societies which may be registered.
6. Conditions of registration.
7. Application for registration.
8. Power of the Registrar to decide certain questions.
9. Restriction on holding of shares.
10. Registration.
11. Registration certificate.
12. Classification of societies.

Sections

13. Bye-laws of co-operative societies.
14. Amendment of bye-laws of societies.
15. A power to direct amendment of bye-laws.
16. Change of name.
17. When amendments of bye-laws comes into force.
18. Change of liability.
19. Amalgamation, transfer of assets and liabilities and division of co-operative societies.
20. Power to direct amalgamation, division and re-organization in public interest, etc.
21. Re-construction of Societies.
22. Partnership of Societies and subsidiary.
23. Collaboration by societies.
24. Cancellation of registration.
25. De-registration of Societies.
- 25A. Liability of Coop. Bank to the deposit insurance and credit guarantee corporation.

CHAPTER – III**Members of Co-operative Societies and their Rights and Duties**

26. Person who may become member.
27. Open membership.
28. Joint member.
29. Nominal member.
30. Cessation of membership.
31. Expulsion of members.
32. Rights of membership.
33. Voting power of members.
34. Manner of exercising vote.
35. Restriction on transfer of shares of interest.
36. Transmission of interest on death of member.
37. Liability of past member and estate of deceased member.
38. Rights of members to see books, etc.
39. Insolvency of members.

Sections**CHAPTER – IV****Privileges of Co-operative Societies**

40. Co-operative society to be body corporate.
41. First charge of co-operative society on certain movable assets of member for the amount due from him.
42. Charge on immovable property of members borrowing loan from certain co-operatives.
43. Charge and set off in respect of share or contribution or interest of member.
44. Share or contribution or interest not liable to attachment.
45. Register of members.
46. Admissibility of copy of entry as evidence.
47. Exemption from certain taxes, fees and duties.
48. Copy of Bye-laws etc. to be open to inspection.
49. Deduction from salary to meet co-operative society's claim in certain cases.

CHAPTER – V**State aid to Societies**

50. Government investment in societies.
51. Liability to be limited in respect of Government share.
52. Other forms of State aid to societies.
53. Provisions of this Chapter to override other laws.

CHAPTER – VI**Properties and funds of Co-operative Societies**

54. Funds other than net profits/surplus not to be divided among members.
55. Contribution to charitable purpose.
56. Contribution to Co-operative Education Fund.
57. Reserve and other funds.
58. Investment of funds.

Sections

59. Restrictions on loans.
60. Restrictions on borrowings.
61. Restrictions of other transactions with non-members.
62. Funds not to be utilized for certain proceedings filed or taken by or against officers in personal capacity.
63. Employees Provident Fund.
64. Writing off of bad debts and losses.

CHAPTER – VII**Management of Co-operative Societies**

65. Final Authority in a co-operative society.
66. Annual general body meeting.
67. Special general meeting.
68. Filing of returns.
69. Board of Directors.
70. Election to Board of Directors of societies.
71. Vacancies on the Board of Directors.
72. Appointment of members of the board, new board or administrator where there is failure to elect or where committee does not enter upon office.
73. Disqualification for being director/ /delegate of representative general body.
74. Disqualification of all directors of the board.
75. Power and functions of the Board of Directors.
76. Power of removal of Board of Directors or its Officers.
77. Motion of no confidence against the officers of societies.
78. Removal of Board of Directors or member thereof.
79. Meetings and minutes.
80. Handing over records and property to new Chairman on election.
81. Power to seize the records, etc.
82. Acts of co-operative society not to be invalidated by certain defects.

Sections

83. Directions by the Registrar for successful conduct of business.
84. Chief Executive.
85. Powers and functions of Chief Executives.
86. Qualification of Chief Executive Officer or any other Officers.
87. Government power to give directions in the interest of Co-operative Movement.

CHAPTER – VIII**Accounts, Audit, Inspection & Inquiry and Surcharge**

88. Accounts and records.
89. Audit.
90. Powers and duties of the auditor.
91. Rectification of defect in accounts.
92. Inquiry or inspection of societies
93. Cost of re-audit, inspection, inquiry.
94. Recovery of cost.
95. Registrar to bring defect disclosed in re-audit, inspection or inquiry.
96. Power of the Registrar to assess damages against delinquent Promoters etc.
97. Power to summon and examine documents and persons etc.

CHAPTER – IX**Disputes and Arbitration**

98. Disputes.
99. Powers of an apex co-operative bank to proceed against members of a society for recovery of money's due to it from such society.
100. Limitation.
101. Settlement of disputes.
102. Procedure for settlement of disputes and power of Registrar, his nominee or Board of Nominees.
103. Attachment before award and interlocutory orders.
104. Decision of Registrar or his nominee or board of nominees.
105. Appeal against decision of Registrar or his nominee or board of nominee.
106. Money how recovered.

Sections

107. Private transfer of property made after issue of certificate void against society.
108. Transfer of property which cannot be sold.
109. Recovery of any sum advanced by resource society.
110. Execution of awards and Registrar's powers to recover certain sums by attachment and sale of property.

CHAPTER – X**Special Provisions for Co-operative Housing Societies**

111. Application.
112. Definitions.
113. Limit on membership.
114. Allotment of plots dwelling units and commercial units.
115. Rights of members in a Co-ownership housing society.
116. Provisions for nominations.
117. Restriction on letting out.
118. Restriction on transfer of shares or interest of a member.
119. Permission for transfer of occupancy right not to be ordinarily refused and provision for appeal.
120. Creation, maintenance and utilization of building maintenance fund.
121. Miscellaneous.
122. Unit of assessment.
123. Certain portion of land acquired by the Government for housing to be utilized on co-operative principles.

CHAPTER – XI**Winding up of Co-operative Societies (Liquidation)**

124. Dissolution of co-operative society by members.
125. Dissolution of co-operative society by Registrar.
126. Winding up, etc. of co-operative banks at a direction of the Reserve Bank.
127. Appointment of liquidator.
128. Duties of liquidator.

Sections

129. Powers of liquidator.
130. Disposal of surplus assets of liquidated co-operative societies.
131. Final accounts and termination of liquidation proceedings.

CHAPTER – XII**Appeals, Review and Revisions**

132. Appeals.
133. Extension of period of limitation by appellate authority in certain cases.
134. Review.
135. Revision.
136. Interlocutory orders.
137. Goa Co-operative Tribunal.
138. Co-operative Tribunal to have powers of civil court.

CHAPTER – XIII**Offences and Penalties**

139. Offences.
140. Penalties.
141. Authority to take cognizance.
142. Contempt of Registrar or designated officer and of Co-operative Tribunal.
143. Presumption as to statements.
144. Notice necessary in suits.
145. Indemnity.
146. Bar of jurisdiction of civil or revenue courts.

CHAPTER – XIV**Miscellaneous**

147. Power to delegate.
148. Recovery of sums due to the Government.
149. Power to exempt societies from provisions of Act.
150. Branches, etc. of societies outside the State.
151. Registrar and other officers to be public servants.
152. Rules.
153. Service rules for employees of co-operative societies.
154. Repeal and savings.
155. Companies Act not to apply.
156. Act to override other laws.
157. Removal of difficulties.

The Goa Co-operative Societies Act (As Amended upto)

(Goa Act of)

An Act to consolidate and amend the laws relating to co-operative societies, to facilitate the voluntary formation and democratic functioning of co-operatives as people's institutions based on self help and mutual aid to enable them to promote their economic and social betterment and to provide for regulation, management, functional autonomy of such societies and for matters connected therewith or incidental thereto in the State of Goa.

Be it enacted by Legislative Assembly of the Goa State in the year of the Republic of India as follows:—

CHAPTER - I

Preliminary

1. *Short title, extent and commencement.*—

(1) This Act may be called the Goa Co-operative Societies Act.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(1) "Agricultural Marketing Society" means a society,—

(a) The object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production; and

(b) Not less than three-fourth of the members of which are agriculturists or societies formed by agriculturists;

(2) "Agricultural Service Co-operative Society" means an agricultural co-operative society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers;

(3) "Apex Society" means a society, the area of operation which extends to the whole of the State of Goa, and the main object of which is to promote the principal object of the societies affiliated to it as members and provide for the facilities and services to them and which has been classified as an apex society by the Registrar;

(4) "Arbitrator" means a person appointed under this Act to decide disputes referred to him by the Registrar and includes the Registrar's nominee or Board of Nominees;

(5) "Area of operation" means the area of Goa State from which the membership is drawn;

(6) "Auditor" means a person appointed by the Registrar or by a society, to audit the accounts of the society;

(7) "Board of Directors" means the governing body or committee of management of a society, by whatever name called, in which the management of the affairs of a society is vested;

(8) "Bye-laws" means bye-laws prescribed under the Rules and registered under this Act and included registered amendments of such bye-laws;

(9) "Central Bank" means a co-operative bank, the object of which includes the creation of funds to be loaned to other societies but does not include the urban co-operative bank;

(10) "Chief Executive" with whatever designation called, means an individual, who, subject to the superintendence, control and direction of the Board of Directors, has been

entrusted by the board, with the management of the affairs of the society;

(11) "Committee" means the committee of management or other directing body, to which the management of the affairs of a society is entrusted.

(12) "Co-operative Farming Society" means a co-operative society the principal object of which is to organize cultivation of land held by it or by its members, jointly or otherwise, with a view to increasing agricultural production and employment by proper utilization of land, labour and other resources;

(13) "Consumers Co-operative Society" means a co-operative society the primary object of which is the procurement and distribution of goods to, or the performance of other services for its members as also other customers;

(14) "Co-operative Tribunal" means the Goa Co-operative Tribunal constituted under section 137 of this Act;

(15) "Co-operative Housing Society" means a society as defined in section 112 of this Act;

(16) "Co-operative Bank" means a society registered under this Act and doing the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949.

(17) "Co-operative Credit Society" means a co-operative society the primary object of which is to create funds for lending money to its members;

(18) "Co-operative Principles" means the co-operative principles specified in the section 3 of this Act;

(19) "Co-operative Society" means a society registered or deemed to be registered under this Act;

(20) "Co-operative Year" means a year or period ending on the thirty-first day of March;

(21) "Director" means a member of the Board of Directors;

(22) "Dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him;

(23) "Federal Society" means a society,—

(a) not less than five members of which are themselves societies, and

(b) in which the voting rights are so regulated that the members which are societies have not less than four-fifth of the total number of votes in the general meetings of such society;

(24) "Financing Bank" means a co-operative bank the objects of which includes the creation of funds to be lent to other co-operative societies;

(25) "Firm" means a firm registered under the Indian Partnership Act, 1932;

(26) "General Body" in relation to a primary co-operative society means all the members of that co-operative society and in relation to federal co-operative society, means all the delegates of the members co-operative societies and the individual members;

(27) "Government" means the Government of Goa;

(28) "Industrial Co-operative Society" means a co-operative society, the object of which includes manufacturer, processing and marketing of goods by or with the help of its members and providing supplies and services to them;

(29) "Joint Member" means a member who holds jointly share of a society with another but whose name does not stand first in the share certificate;

(30) "Liquidator" means a person appointed as liquidator under section 127 of this Act;

(31) "Local Authority" includes an agricultural produce Market Board constituted by or under any law for the time being in force;

(32) "Member" means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the Rules and the bye-laws, and includes a nominal or joint member and the Government when it subscribes to the share capital of a co-operative society;

(33) "Multi-State Co-operative Society" means a co-operative society which is registered or deemed to be registered under the Multi-State Co-operative Societies Act, 1984 (Central Act 51 of 1984);

(34) "Mutually Aided Society" means a society which does not have any share capital, loans or any financial assistance from the State or the Central Government except with a Memorandum of Understanding with the Government;

(35) "Nominal Member" means a person admitted to membership as such after registration in accordance with the bye-laws;

(36) "Officer" means the President, Vice-President, Chairman, Vice-Chairman, Managing Director, Secretary, Manager, Treasurer, Liquidator, Administrator and includes any other person empowered under this Act, the Rules or the bye-laws, to give directions in regard to the business of a co-operative society;

(37) "Official Assignee" means a person appointed by the Registrar to act as an Official Assignee under section 25 (2) of the Act;

(38) "Official Gazette" means the Official Gazette of the Government;

(39) "Patronage Refund" means annual refund to members in proportion to their transaction with the society during the year;

(40) "Prescribed" means prescribed by rules;

(41) "Primary Society" means a society whose membership is available only to individuals;

(42) "Processing Society" means a society the object of which is the processing of goods;

(43) "Producers Society" means a society, the object of which is the production and disposal of goods or the collective disposal of the labour of the members thereof;

(44) "Registrar" means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

(45) "Resource Society" means a society, the object of which is the obtaining for its members of credit, goods or services required by them;

(46) "Rules" means a rule made under this Act;

(47) "Section" means a section of this Act;

(48) "State" means the State of Goa.

(49) "Society" means a Co-operative Society registered, or deemed to be registered, under this Act.

(50) "Society with Limited Liability" means a society having the liability of its members limited by its bye-laws;

(51) "Society with Unlimited Liability" means a society, the members of which are in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the society.

(52) "State Aided Society" means a society which is not a mutually aided society;

(53) "Surplus" means the net excess of income over the expenditure;

(54) "Sub-divisional Magistrate" means an Executive Magistrate appointed under the Code of Criminal Procedure, 1973 (2 of 1974) and posted by the Government to be in-charge of the sub-division;

(55) "Working Capital" means funds at the disposal of a society inclusive of paid-up share capital, fund built out of profits, and money raised by borrowing and by other means.

(56) "Year" means a Co-operative year as defined under this Act;

3. *Co-operative principles and bye-laws.*— Individuals or co-operatives intending to form into a co-operative society under this Act shall frame bye-laws confirming to the following principles of co-operation, namely:—

(1) *Voluntary and Open Membership.*— Co-operatives are voluntary organizations, open to all persons capable of using their services and willing to accept the responsibilities of membership, without discrimination on basis of gender, social inequality, racial, political ideologies or religious consideration.

(2) *Democratic Member Control.*— Co-operatives are democratic organizations controlled by their members, who actively participate in setting their policies and decision making. Elected representatives of these co-operatives are responsible and accountable to their members.

(3) *Member's Economic Participation.*— Member contribute equitably and control the capital of their co-operative democratically. At least a part of the surplus arising out of the economic results would be the common

property of the co-operatives. The remaining surplus could be utilized benefiting the members in proportion to their share in the co-operative.

(4) *Autonomy and Independence.*— Co-operatives are autonomous, self-help organizations controlled by their members. If co-operatives enter into agreement with other organizations including Government or raise capital from external sources, they do so on terms that ensure their democratic control by members and maintenance of co-operative autonomy.

(5) *Education, Training and Information.*— Co-operatives provide education and training to their members, elected representatives and employees so that they can contribute effectively to the development of their co-operatives. They also make general public, particularly young people and leaders aware of the nature and benefits of co-operation.

(6) *Co-operation among co-operatives.*— Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through available local, regional, national and international co-operative structures.

(7) *Concern for Community.*— While focusing on the needs of their members, co-operatives work for the sustainable development of communities through policies accepted by their members.

CHAPTER - II

Registration of Co-operative Societies

4. *Registrar and his subordinates.*— (1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint one or more person to assist such Registrar with such designation, and in such local areas or throughout the State, as it may specify in that behalf and may, by general or special order, confer on

any such person or persons all or any of the powers of the Registrar under this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar conferred, shall work under the general guidance, superintendence and control of the Registrar. They shall be subordinate to the Registrar and subordination of such persons amongst themselves shall be such as may be determined by the Government.

(2) The person appointed under sub-section (1) as the Registrar, shall not, during the course of his service, serve in any capacity with any society.

5. *Societies which may be registered.*— (1) A Society which has its objects the promotion of the economic interest or general welfare of its members, or of the public in accordance with the co-operative principles or a society established with the object of facilitating the operations of any such society may be registered under this Act:

Provided that, no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development of the Co-operative Movement.

(2) A society shall be registered with limited liability.

6. *Conditions of Registration.*— (1) No society, other than a federal society, shall be registered under this Act unless it consists of at least ten persons (each of such persons being a member of a different family), who are qualified to be members under this Act and who reside or carry on business or profession in the area of operation of the society:

Provided that a co-operative housing society consisting of at least five such persons who are residing or intend to reside in the area of operation of the society may be registered under this Act:

Provided further that, a lift irrigation society consisting of five or more such persons may be registered under this Act.

(2) No federal society shall be registered unless it has at least five societies as its members.

(3) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.

(4) The name of the society shall not have any reference to any caste or religious denomination.

(5) The word “limited” or its equivalent in any language shall be the last word in the name of every society which is registered or deemed to be registered under this Act.

Explanation.— For the purposes of this section the expression “member of a family” means wife, husband, father, mother, unmarried son and unmarried daughter.

7. *Application for Registration.*— (1) For the purposes of registration, an application shall be made to the Registrar in the form prescribed and shall be accompanied by four copies of the proposed bye-laws of the society alongwith the documents prescribed by the Registrar from time to time and such registration fee as may be determined by the Registrar. Different registration fees may be determined for different classes of societies, regard being had to the service involved in processing an application for registration.

(2) The application shall be signed,—

(a) in the case of a society other than a federal society, by at least ten persons (each of such persons being a member of a different family), who are qualified under this Act; and

(b) in the case of a co-operative housing society, by at least five such persons:

Provided that in case where a co-operative housing society consists of more than five persons in accordance with the scheme of housing on the plot of land mentioned in the objects of the society, the application shall be signed by at least fifty one percent of the total number of the expected members;

(c) in the case of lift irrigation society, by atleast five such persons; and

(d) in the case of a federal society, by atleast five societies.

Explanation.— The application for Registration of a federal society.

The person signing shall be a member of the Board of Directors of such society, and is authorised by the Board by a resolution to sign on its behalf, the application for registration of the society and its bye-laws, and a copy of such resolution is appended to the application.

8. *Power of the Registrar to decide certain questions.*— Where any question arises at the stage of registration whether for the purpose of this Act a person resides in the area of operation of a co-operative society or not, or whether a co-operative society is of same type as another co-operative society or of different type, the question shall be decided by the Registrar whose decision shall be final.

9. *Restrictions on Holding of Shares.*— No member other than the Government or a co-operative society shall hold more than such portion of the share capital of a co-operative society subject to a maximum of one-tenth, as may be prescribed.

10. *Registration.*— (1) If the Registrar is satisfied—

(a) that the application complies with the provisions of this Act and the rules;

(b) that the objects of the proposed co-operative society are in accordance with section 3;

(c) that the proposed bye-laws are not contrary to the provisions of this Act and the Rules;

(d) that in case of co-operative bank prior written permission of the Reserve Bank of India for registration has been received by the Registrar;

(e) that the proposed co-operative society has reasonable chances of success;

(f) that in case of co-operative housing society, the confirmation of availability of land to the co-operative housing society from the land allotting agency has been received by the Registrar.

The Registrar may register the co-operative society and its bye-laws.

(2) When the Registrar refuses to register a co-operative society, he shall communicate the order of refusal together with the reasons, therefore, to the applicant.

(3) The application for registration shall be disposed off by the Registrar within a period of ninety days from the date of receipt thereof by him:

Provided that if the Registrar is unable to dispose off the application within the aforesaid period, he shall make a report to the Government stating therein the reasons for his inability to do so, and the Government may allow him further time not exceeding ninety days to dispose off such application:

Provided further that if the application for registration is not disposed off within the aforesaid period and the Registrar fails to communicate the order of refusal within that period, the application shall be deemed to have been accepted for registration and the Registrar shall issue the registration certificate in accordance with the provisions of this Act and the Rules made thereunder.

(4) An appeal against the order of refusal of registration under sub-section (2) shall be

filed before the Co-operative Tribunal within a period of sixty days from the date of such refusal.

(5) The Registrar shall maintain a register of all societies registered under this Act.

11. *Registration Certificate.*— Where a co-operative society is registered or deemed to be registered under this Act, the Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is duly registered under this Act, unless it is proved that the Registration of society has been cancelled.

12. *Classification of Societies.*— (1) The Registrar shall classify all societies into one or other of the classes of societies defined in section 2 of this Act and also into such sub-classes thereof as prescribed.

(2) The Registrar may, for reasons to be recorded in writing, alter the classification of a society from one class of society to another, or from one sub-class thereof to another and may, in the interest of the co-operative movement and on such terms and conditions as he may think fit to impose, allow any society so classified to undertake the activities of a society belonging to another class.

(3) A list of all societies so classified shall be published by the Registrar every three years in such manner as the Government may, from time to time, direct.

13. *Bye-laws of Co-operative Societies.*— (1) Every Co-operative Society may make its bye-laws inconsistent with the provisions of this Act and the Rules made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely:—

(a) the name, address and area of operation of the society;

(b) the objects of the society;

(c) the services to be provided to its members;

(d) the eligibility for obtaining membership;

(e) the procedure for obtaining membership;

(f) the conditions for continuing as member;

(g) the procedure for withdrawal of membership;

(h) the transfer of membership;

(i) the procedure for expulsion from membership;

(j) the rights and duties of the members;

(k) the nature and amount of capital of the society;

(l) the manner in which the maximum capital to which a single member can subscribe;

(m) the sources from which the funds may be raised by a co-operative society;

(n) the purpose for which the funds may be applied;

(o) the manner of allocation or disbursement of net profits of co-operative society;

(p) the constitution of various reserves;

(q) the manner of convening general meetings and quorum thereof other than those provided under this Act;

(r) the procedure for notice and manner of voting in general and other meetings;

(s) the procedure for amending the bye-laws;

(t) the number of elected members of the Board of directors not exceeding fifteen;

(u) the term of office of elected members of a Board of Directors shall not exceed five years;

(v) the qualification and disqualification for member of Board of Directors of the Society;

(w) the procedure for removal of members of the Board of Directors and for filling of vacancies;

(x) the manner of convening Board meetings, its quorum, number of such meetings in a year and venue of such meetings;

(y) the frequency of Board meetings;

(z) the powers and functions of the Chief Executive;

(za) the manner of imposing the penalty;

(zb) the appointment, rights and duties of Internal auditors and procedure for conduct of audit;

(zc) the authorisation of officers to sign documents, operate bank accounts and to Institute and defend suits and other legal proceedings on behalf of the society;

(zd) the terms on which a co-operative society may deal with persons other than members;

(ze) the terms on which a co-operative society may associate with other co-operative society;

(zf) the terms on which a co-operative society may deal with organizations other than co-operative societies;

(zg) the procedure and manner for transmission of shares and interest in the name of a nominee in case of death of a member;

(zh) the educational and training programme to be conducted by the co-operative society;

(zi) the principal place and other places of business of the co-operative society;

(zj) the minimum level of services, to be used by its members;

(zk) any other matter which may be prescribed.

14. *Amendment of Bye-laws of Society.*—

(1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed by a majority of not less than two-third of the members entitled to vote who are present at a general meeting of the society shall be forwarded to the Registrar.

(2) Every application for registration of an amendment of the bye-laws shall be decided and communicated to the society by the Registrar within a period of sixty days from the date of its receipt.

(3) In case of refusal of amendment, if the decision is not communicated to the society, with the reasons thereof, within the said period of sixty days, the said amendment of the bye-laws shall be deemed to have been registered:

Provided that the society shall comply with all the requirement necessary for amendment of bye-law.

(4) Where the Registrar registers an amendment of the bye-laws of a society or where the amendment of the bye-laws is deemed to have been registered, he shall

issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

15. *A power to direct amendment of bye-laws.*— (1) If it appears to the Registrar that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify;

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after consulting such State federal society as may be notified by the State Government, register such amendment and issue to the society a copy of such amendment, certified by him with effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws as amended shall, subject to appeal (if any), be binding on the society and its members.

16. *Change of name.*— (1) A co-operative society may, by resolution passed at a general meeting and with the approval of the Registrar, change its name, but such change shall not affect any right or obligation of the co-operative society or of any of its members or past members and any legal proceedings pending before any person, authority of Court may be continued by or against the co-operative society under its new name:

Provided that prior approval in writing of the Reserve Bank of India shall be necessary for change of the name of a co-operative bank.

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

17. *When amendments of bye-laws come into force.*— An amendment of the bye-laws of a co-operative society shall, unless it is expressed to come into operation on a

particular day, come into force on the day on which it is registered or deemed to be registered.

18. *Change of Liability.*— (1) Subject to the provisions of this Act and the Rules, a co-operative society may, by an amendment of its bye-laws change the form or extent of its liability.

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding anything in any bye-laws or contract to the contrary, any member or creditor shall, during a period of thirty days from the date of receipt of notice by him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the change.

(4) An amendment of a bye-laws of a co-operative society changing the form or extent of its liability shall not be registered or take effect until either—

(a) the assent thereto of all members and creditors has been obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full or otherwise satisfied.

19. *Amalgamation, transfer of assets and liabilities and division of co-operative societies.*— (1) A co-operative society may, by a resolution passed by a two-third majority of the members present and voting at a general body meeting of the co-operative society—

(a) amalgamate with another society;

(b) transfer its assets and liabilities in whole or in part to any other co-operative society;

(c) divide itself into two or more co-operative societies;

(d) convert itself into another class of society;

(e) approve a scheme of compromise or arrangement or reconstruction.

(2) Any two or more co-operative societies may by resolution passed by a two-third majority of the members present and voting at a general body meeting of each such co-operative society, amalgamate themselves and form a new co-operative society.

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, or scheme of compromise or arrangement or reconstruction as the case may be:

Provided that in the case of a co-operative bank, the Registrar shall not accord approval to any such resolution without the previous sanction in writing of the Reserve Bank of India.

(4) When a co-operative society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding anything in any bye-laws or contract to the contrary, any member or creditors shall, during the period of thirty days of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditors who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect until, either—

(a) all assent thereto of all the members and creditors has been obtained;

(b) all claims of members and creditors who exercise the option referred to sub-section (4) within the period specified therein have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

(8) Notwithstanding anything contained in the Transfer Property Act, 1882 or the Registration Act, 1908 in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, the resolution of the societies concerned with amalgamation, shall, in each case, be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

(9) Where any society is found to be degenerating in its operation and the share value of such society has come down below its face value as on the last day of the year immediately preceding its revaluation, the Registrar may, in the interest of members, *suo-motu*, direct the society to,—

(a) amalgamate with another society;

(b) transfer its assets and liabilities, in whole or in part, to any other society;

(c) divide itself into two or more societies;
or

(d) convert itself into another class of society.

In case the society fails to complete the process of amalgamation, transfer, division or conversion, as the case may be, within 45 days from the date of such direction, the Registrar shall order the amalgamation,

transfer, division or conversion, as the case may be, of such degenerating society. All claims of members, creditors and other interested persons of such society as on the date of such order shall stand transferred to the society to which such degenerating society may have been amalgamated, or to the society to whom assets and liabilities have been transferred or to the society formed after division or conversion, as the case may be".

(10) The amalgamation of societies, or division or conversion of a society shall not affect any right or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceeding which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society or as the case may be the converted society, or the new societies.

20. Power to direct amalgamation, division and re-organization in public interest, etc.—

(1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the co-operative movement, or for the purpose of securing the proper management of any co-operative society should be divided to form two or more co-operative societies or should be reorganized then notwithstanding anything contained in section 19, but subject to the provisions of this section, the Registrar may, by order, provide for the amalgamation, division or reorganization of these co-operative societies into a single co-operatives society or into co-operative societies with such constitution, property, rights, interest and authorities and such liabilities, duties and obligations, as may be specified in the order:

Provided that no such order of amalgamation, division or reorganization in respect of a co-operative bank shall be made without the previous sanction in writing of the Reserve Bank of India.

(2) No order shall be made under this section unless—

(a) a copy of the proposed order has been sent in draft to the co-operative society or each of the co-operative societies concerned; and

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within sixty days from the date on which a copy of the order aforesaid is received by the co-operative society or co-operative societies, as the case may be, either from the co-operative society or from any of the co-operative societies concerned or from any member or class of members thereof or from any creditors or class of creditors thereof.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, division or reorganization, as the case may be.

(4) Every member or creditors of each of the co-operative society to be amalgamated, divided or reorganized, who has objected to the scheme of amalgamation, division, or reorganization, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganization, his share or interest if he be a member and the amount in satisfaction of his dues, if he be a creditor.

(5) On the issue of an order under sub-section (1), the provisions of section 24 shall apply to the co-operative societies so amalgamated divided or reorganized as if the amalgamation, division or reorganization had been made under section 19.

21. Re-construction of societies.— Where a proposal for a compromise or arrangement,—

(a) between a society and its creditors, or

(b) between a society and its members, is approved at a special general meeting called for the purpose, the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the liquidator, order re-construction of the society in the prescribed manner.

22. Partnership of societies and subsidiary.—

(1) Any two or more societies may, by resolution passed by three-fourth majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses, provided that each member has clear ten days written notice of the resolution and the date of the meeting.

(2) Nothing in the Partnership Act, 1932 (9 of 1932) shall apply to such partnership.

(3) The annual report and accounts relating to specific business or business of each such society shall be placed before the annual general meeting of each such society.

(4) Any society may, by resolution passed at general meeting by three-fourth majority of members present and voting, promote one or more subsidiary organizations for the furtherance of its stated objective and such organizations may be registered under any law for the time being in force as agreed to by the general body.

(5) The annual reports and accounts of such subsidiary organizations shall be placed before the general meeting of the promoting co-operative society every year.

(6) Any subsidiary organization created under sub-section (4) shall exist only as long as the general body of the co-operative society deems its existence necessary.

(7) The concerned society shall intimate to the Registrar about such partnership or subsidiary within a month of its formation or dissolution.

23. Collaboration by societies.— Any society may, by resolution passed in a general meeting by three-fourth majority of members present and voting, enter into collaboration with any Government undertaking or any undertaking approved by the Government for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise.

24. Cancellation of registration.— The Registrar shall make an order cancelling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, or it is de-registered under the provisions of sub-section (1) of section 25, or winding up proceedings in respect of the society are closed or terminated under section 131. The society shall, from the date of such order of cancellation, be deemed to be dissolved, and shall cease to exist as a corporate body.

25. De-registration of societies.— (1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the Board of Directors or Chief Promoter where Board of Director is not constructed de-register the society:

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on each such individual member, a public notice of the proceedings of de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the chief

promoter and the members of the Board of Directors of the society, and no proceedings in respect of the de-registration of the society shall be called in question in any Court merely on the ground that individual notice is not served on any such member.

(2) When a society is de-registered under the provisions of sub-section (1), the Registrar may, notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of official assignee as the circumstances may require.

(3) The official assignee shall realize the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of the property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(4) The official assignee shall be paid such remuneration and allowances as may be prescribed, and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowance.

(5) Surplus remained after the process of de-registration shall be transferred to "Surplus Fund Account" of the Registrar.

Explanation.— For the purpose of this sub-section, "Surplus Fund Account" means account maintained for the purpose of surplus referred to in this sub-section".

Section 25A.— Liability of a co-operative bank to the Deposit Insurance and Credit Guarantee Corporation.— Notwithstanding anything contained in section 19 or any other provision of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is amalgamated or re-organized

and the Deposit Insurance and Credit Guarantee Corporation has become liable to pay to the depositors of the insured bank under sub-section (b) of section 21 of that Act, the bank with which such insured Bank is amalgamated or the new co-operative bank formed after such amalgamation, or as the case may be, the insured bank or the transferee bank, shall be under an obligation to repay to the Deposit Insurance and Credit Guarantee Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).".

CHAPTER III

Members of Co-operative Societies and their Rights and Liabilities

26. *Person who may become member.*— (1) Any person, who needs the services of the Society, accepts the responsibilities of membership and fulfills such other conditions as may be specified in the bye-laws of the Society, may be admitted as a member.

(2) No person shall be admitted as a member of a society except the following, that is to say:—

(a) an individual, who is a citizen of India and who is competent to contract under the Contract Act, 1872.

(b) a firm, company or any other body corporate constituted under any law for the time being in force, or a society registered under the Societies Registration Act, 1860.

(c) a society registered, or deemed to be registered, under this Act or any other Co-operative Societies Act;

(d) a public trust registered under any law for the time being in force for the registration of such trusts;

(e) Any Self Help Group formed by women/men for mutual assistance or with an objective to avail any type of assistance from Government or any organization for their Social, Economic, Cultural and Educational improvement.

(3) Admission of members may be made only by an elected Board of Directors or by the general body where such a board does not exist.

(4) A person admitted as a member may exercise the rights of membership, including the right to vote, only on fulfillment of such conditions as may be laid down from time to time in the bye-laws.

27. *Open Membership.*— (1) No society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefore under the provisions of this Act and its bye-laws.

(2) Where a person is refused admission as a member of a society, the decision, with the reason therefore, shall be communicated to that person within fifteen days of the date of the decision, or within three months from the date of the application for admission whichever is earlier. If decision is not communicated as mentioned above, the application deemed to be refused.

(3) Any person aggrieved by the decision of a society refusing him admission of its membership, may appeal to the Registrar.

(4) An appeal under sub-section (3) shall be filed within two months of the date of communication of refusal.

28. *Joint member.*— (1) Subject to the provisions of section 26, a society may admit any person as a joint member. A joint member shall hold jointly a share of the society with another but his name shall not stand first in the share certificate.

(2) A member of a society may appoint not more than one joint member.

(3) When a person whose name stands first in the share certificate ceases to be a member, the person admitted as joint member shall automatically be first member. In the event of the cessation of membership of the first member by death, the joint member shall be the first member and the nominee, if any, of the deceased member shall be the joint member.

(4) The joint member shall have equal right in the capital and property of the Society with the first member.

(5) The joint member shall have the right to vote only in the absence of the member whose name stands first in the share certificate.

29. *Nominal member.*— (1) Notwithstanding anything contains in section 26 a society may admit any person as nominal member on payment of entrance fee as specified in the bye-laws.

(2) A Nominal Member shall not be entitled to any share in any form whatsoever in the profits or Assets of the Society as such member. A nominal member shall ordinarily not have any of the privileges and rights of a member, however except the voting right, the nominal member shall have such privileges and rights and be subject to such liabilities, of a member, as may be specified in the bye-laws of the society.

30. *Cessation of membership.*— A person shall cease to be a member of a society on his resignation from the membership thereof being accepted or on the transfer of the whole of his share or interest in the society to another member, or on his death, or expulsion from the society or ceasing to hold the qualification for the membership under the bye-laws of the society or where a firm, company, any other corporate body, society or trust is a member, on its dissolution or ceasing to exist.

31. *Expulsion of members.*— (1) A society may, by resolution passed by a majority of

not less than three-fourth of the members entitled to vote who are present at general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society:

Provided that, no such resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body. If the member is aggrieved by the decision of the society expelling him from its membership, he may appeal to the Registrar within two months of the date of the communication of such decision.

(2) No members of a society who has been expelled under the foregoing sub-sections shall be eligible for re-admission as a member of that society, for a period of one year from the date of such expulsion.

32. Rights of membership.— (1) No person shall exercise the rights of the member of a society, until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be specified in the bye-laws of such society.

(2) Any member or creditor having interest in the affairs of the co-operative society may seek information relating to his transaction of the co-operative society and for that purpose may be provided a certified copy of any document within thirty days from the date of receipt of application relating to such transaction on payment of such fee as may be specified.

(3) Where a member or creditor having interest in affairs of the society seeking information prefers an appeal to the Registrar stating that the officer of the society without any reasonable cause, has refused to receive his application for providing information or has not furnished information within the time specified under sub-section (1) or has refused the request for information or knowingly given incorrect information or obstructed in any manner in furnishing the information, the Registrar, after affording a reasonable opportunity of being heard to the officer of

the society and the appellant, may either reject the appeal; or direct the officer of the society to furnish information within the period specified in the order or such extended period as may be allowed, and in case of default the Registrar may impose a penalty of two hundred and fifty rupees each day till the information is furnished, so however, the total amount of such penalty shall not exceed ten thousand rupees which shall be recoverable as arrears of land revenue in case of default in payment.

33. Voting power of members.— Every member of a co-operative society shall have one vote in the affairs of the co-operative society:

Provided that—

(a) in the case of an equality of votes, the chairman shall have a second or casting vote;

(b) a nominal or joint member shall not have the right of vote;

(c) Where the Government is a member of the co-operative society, the nominated director shall not have right to vote.

(d) If a co-operative society becomes defunct and has ceased to function in accordance with the bye-laws and co-operative principles, its representative shall have no voting right in the affairs of a federal co-operative society or financial bank or financial society and such society shall not qualify for election to the Board of Directors of federal society.

Explanation.— Defunct Society means a society which has not carried on business for three years to the extent prescribed by the Registrar in the notification issued from time to time.

34. Manner of exercising vote.— (1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society which is a member of another co-operative society, may appoint one of its member to vote on its behalf in the affairs of that co-operative society.

(3) A company, firm or any other body corporate constituted under any law for the time being in force which has invested an part of its funds in the shares of a society may appoint any one of its director or officer to vote on its behalf in the affairs of such society, and accordingly such director or officer shall have the right to vote on behalf of the company or body corporate:

Provided that a member who is in the employment of the Defence Services shall be entitled to vote by proxy through any other member of the society if he is unable to exercise his right of vote personally:

Provided further that a NRI who has subscribed to the Bye-laws for registration of a society and/or is a Citizen of India staying abroad and unable to attend the general body and election to the Board of Director of a Housing Society in person can appoint any member of a society as his proxy to attend the general body and to vote in the election of Board of Director. However, he shall not be entitled to contest the election of Board of Director.

35. *Restriction on transfer of shares or interest.*— The transfer of the share or interest of a member in the capital of a co-operative society shall be subject to such conditions as to maximum holding as are specified in section 9.

36. *Transmission of interest on death of member.*— (1) On the death of a member of a society, the society shall transmit the share or interest of the deceased member to a person or persons nominated, or to such person as may appear to the Board of Directors to be the heir or legal representative of the deceased member:

Provided that, such nominee, heir or legal representative, as the case may be, duly admitted as a member of the society.

(2) Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member, ascertained in accordance with the Rules:

Provided that, nothing contained in this sub-section or in section 26 shall prevent a minor or person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member in a society.

(3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments duly made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

37. *Liability of past member and estate of deceased member.*— The liability of a past member, or of the estate of a deceased member, of a society for the debts of the society as they stood—

(a) in the case of a past member, on the date on which he ceased to be member, and

(b) in the case of a deceased member, on the date of his death, shall cease after a period of two years from such date.

38. *Rights of members to see books, etc.*— (1) Every member shall be entitled to inspect, free of cost, at the society's office during office hours, or at any time fixed for the purpose by the society, the bye-laws, the last three years audited annual financial statements, audit report and audit rectification report and those portions of the minutes of general meetings

and Board meetings and books and records relevant to his transactions with the society.

(2) A society shall furnish to a member, on request in writing and on payment of such fees as may be specified in the bye-laws, a copy of any of the documents mentioned in the foregoing sub-section within one month from the date of payment of such fees.

39. *Insolvency of members.*— Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (V of 1920) or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to the dues payable by him to the Government or to a local authority.

CHAPTER IV

Privileges of Co-operative Societies

40. *Co-operative society to be body corporate.*— The registration of a co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contract, institute and defend suits and other legal proceedings and do all things necessary for the purposes for which it is constituted.

41. *First charge of co-operative society on certain movable assets of member for the amount due from him.*— (1) Notwithstanding anything contained in this Act or any other law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the

estate of the deceased member, as the case may be.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the prior permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

42. *Charge on Immovable property of members borrowing loan from certain co-operatives.*— Notwithstanding anything contained in this Act or in any other law for the time being in force—

(i) any person who makes an application to a co-operative society of which he is a member for a loan shall, if he owns any land or has interest in any land as tenant, make a declaration in the prescribed form which shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of loan which co-operative society may make to the member in pursuance of the application and for all future advances, if any, required by him which the co-operative society may make to him as such member subject to such maximum as may be determined by the co-operative society together with the interest on such amount of loan and advances;

(ii) a declaration made under clause (i) may be varied at any time by a member with the consent of the co-operative society in favour of which such charge is created;

(iii) no member shall alienate the whole or any part of the land or interest therein specified in the declaration made under clause (i) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that for the purpose of paying in full to the co-operative society the whole amount borrowed by the member together with interest thereon, the member may, with the previous permission in writing of the co-operative society and subject to such conditions as the co-operative society may impose, alienate the whole or any part of such land or interest thereon:

Provided further that standing crops on any such land may be alienated with the previous permission of the co-operative society;

(iv) any alienation made in contravention of the provisions of clause (iii) shall be void;

(v) Subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue, there shall be a first charge in favour of the co-operative society on the land or interest specified in the declaration made under clause (i) for and to the extent of the dues owing by him on account of the loans and advances;

(vi) the record of rights shall also include the particulars of every charge on land or interest created under a declaration under clause (i) notwithstanding anything contained in any law relating to land revenue for the time being in force;

(vii) any sum due to a co-operative society in consequence of charge created under a declaration under clause (i) shall, on application of its recovery being made by such co-operative society accompanied by a certificate signed by the Registrar, be recoverable by the Collector, according to the law and under the Rules for the time being in force for the recovery of land revenue.

43. *Charge and set-off in respect of share or contribution or interest of members.*— A co-operative society shall have a charge upon the share or contribution or interest in the capital and on the deposit of a member or past member or deceased member and upon any dividend, bonus or profits payable to a

member or past member or the estate of a deceased member in respect of any debt from such member or past member or the estate of such deceased member to the co-operative society, and may set-off any sum credited or payable to a member or past member or the estate of deceased member in or towards payment of any such debt.

44. *Share or contribution or interest not liable to attachment.*— Subject to the provisions of section 42, the share or contribution or interest of a member or past member or deceased member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of any Court in respect of any debt or liability incurred by such member, and a receiver under the Provincial Insolvency Act, 1920 (5 of 1920) shall not be entitled to or have any claim on such share or contribution or interest.

45. *Register of members.*— Any register or list of members or shares kept by any co-operative society shall be *prima facie* evidence of any of the following particulars entered therein:—

(a) the date on which any person entered in such register or list became a member; and

(b) the date on which any such person ceased to be a member.

46. *Admissibility of copy of entry as evidence.*— (1) A copy of any entry in a book of a co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer of a co-operative society and no officer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to

which the co-operative society or the liquidator is not a party, be compelled to produce any of the co-operative society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the Court or the arbitrator made for special cause.

47. *Exemption from certain taxes, fees and duties.*— (1) The Government may, by notification in the Official Gazette, remit in respect of any class of co-operative societies—

(a) the stamp duty chargeable under any law for the time being in force in respect of any instrument executed by or on behalf of a co-operative society or by an officer or member thereof and relating to the business of such co-operative society or any class of such instruments or in respect of any award or order made under this Act, in cases, where, but for such remission the co-operative society, officer or member, as the case may be, would be liable to pay such stamp duty; and

(b) any fee payable under any law for the time being in force relating to the registration of documents or court fees.

(2) The Government may, by notification in the Official Gazette, remit in respect of any class of co-operative societies—

(a) land revenue;

(b) taxes on agricultural income; and

(c) taxes on professions, trades, callings and employments:

Provided that the aforesaid exemption shall not include exemption in respect of certain Sales Taxes or Central Taxes or Duties or Levies.

48. *Copy of Bye-laws etc., to be open to inspection.*— The Registrar shall keep the bye-laws and the list of members of Board of

Directors of every society registered under this Act, open for inspection to the public on payment of such fees as may be prescribed.

49. *Deduction from salary to meet co-operative society's claim in certain cases.*— (1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the co-operative society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the co-operative society in satisfaction of any debt or other demand owing by the member to the co-operative society.

(2) On the execution of such agreement, the employer shall, if so required by the co-operative society by a requisition in writing and so long as the co-operative society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the co-operative society, as if it were a part of the salary or wages payable on the day as required under the Payment of Wages Act, 1936 (4 of 1936). Such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

(3) Where a requisition in writing from any co-operative society registered or deemed to be registered in any reciprocating States/ Union Territory in respect of a member of that co-operative society, who has executed any such agreement as is referred to in sub-section (1) and who, for the time being, is employed in State of Goa, is received by his employer, the requisition shall be acted upon as if it had been made by a co-operative society in State of Goa and the provisions of this section shall have effect accordingly.

Explanation.— For the purpose of this sub-section "reciprocating States/Union

Territory" means any State or Union Territory which the Government may, by notification in the Official Gazette, declare to be reciprocating State/Union Territory.

(4) If, after the receipt of a requisition made under sub-section (2) or sub-section (3), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the co-operative society, the co-operative society shall be entitled to recover any such amount from the employer as arrears of land revenue and the amount so due from the employer shall rank in priority in respect of the liability of the employer equal to that of the wages in arrears.

(5) Nothing contained in this Section shall apply to an establishment under a railway administration operating any railway as defined in clause (20) of Article 366 of the Constitution.

CHAPTER V

State Aid to Societies

50. *Government Investment in Societies.*— The Government may subscribe to the share capital of a society with limited liability, upon, such terms and conditions as may be agreed upon.

51. *Liability to be limited in respect of Government Shares.*— Where any share are purchased in a society by the Government, the liability in respect of such shares shall, in the event of the society of which the share are purchased being wound up, be limited to the amount paid in respect of such shares.

52. *Other Forms of State aid to Societies.*— Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the Government may, by general or special order specify in this behalf, the Government may,—

(a) give loans to a society;

(b) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both or the repayment of the share capital of a society to its members, or the payment of dividend thereon at such rates as may be specified by the Government;

(c) guarantee the repayment of loans given by a co-operative bank to a society:

(d) guarantee the repayment of the principal and payment of interest on, loans and advances given by the Reserve Bank of India, or any Bank or any other financial institution constituted under any law for the time being in force: or

(e) provide financial assistance, in any other form, including subsidies, to a society.

53. *Provisions of this Chapter to override other laws.*— The provisions in this chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER VI

Properties and Funds of Co-operative Societies

54. *Funds other than net profits/surplus not to be divided among members.*— No part of the funds other than net profits of a co-operative society shall be divided by way of bonus or dividend or otherwise distributed among its members:

Provided that after atleast one-fourth of the net profits in the year has been carried to the reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made to the member to such extent and under such conditions as may be prescribed by the Rules or bye-laws:

Provided further that a society may issue bonus share out of its reserve and such bonus shares issued may not rank *pari-passu* to the

existing shares. Such bonus shares shall be issued by passing a resolution in the general body. The issue of bonus shares shall be in accordance with the bye-laws of the society.

55. *Contribution to Co-operative Education Fund.*— A co-operative society shall out of its net profits/surplus in any year credit such portion of the profits equal to two percent or maximum rupees fifty thousand whichever is less towards contribution to the Co-operative Education Fund which shall be transferred to the Goa State Co-operative Union or as may be prescribed under the Rules.

56. *Contribution to charitable purpose.*— Any co-operative society may, with the prior approval of the general body, after one-fourth of the net profits/surplus in any year has been carried to the reserve fund, contribute an amount not exceeding five per cent of the remaining net profits/surplus to any purpose connected with the development of co-operative movement or charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890).

57. *Reserve and other funds.*— (1) A society may create statutory and non-statutory reserves and other funds for the promotion of the objects of the society.

(2) Every society may provide funds each year for co-operative education and training of its members, staff and Directors.

58. *Investment of funds.*— (1) A co-operative society may invest or deposit its funds—

(a) in the postal savings bank; or

(b) in any of the securities specified in Section 20 of the Indian Trust Act, 1882; or

(c) in the shares or securities of any other co-operative society; or

(d) with co-operative or scheduled or nationalized banks; or

(e) in any federal co-operative society of which it is member or apex or financing bank; or

(f) in any other mode permitted by the rules or by general or special orders of the Government:

Provided that the co-operative bank shall be required to make investment of its funds in accordance with the directions, instructions and guidelines of the Reserve Bank of India.

(2) Any investment or deposit made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

59. *Restrictions on loans.*— (1) A co-operative society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar, a co-operative society may make a loan to another co-operative society:

Provided further that the co-operative banks shall make loans and advances as per directions of the Reserve Bank of India from time to time.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor against his deposit on its security.

60. *Restrictions on borrowings.*— (1) A co-operative society may receive deposits, raise loans and receive grants from external sources to such extent and under such conditions as may be specified in the bye-laws:

Provided that the total amount of deposits and loans received during any financial year shall not exceed ten times of the sum of subscribed share capital and accumulated reserves:

Provided further that while calculating the total sum of subscribed share capital and accumulated reserves, the accumulated losses shall be deducted.

(2) Subject to the provisions of sub-section (1), a co-operative society may accept funds or borrow funds for the fulfillment of its objects as are mutually contracted upon and approved by the general body of members of the co-operative society:

Provided that in case of borrowing by a co-operative bank, it shall be in accordance with the directions, instructions and guidelines issued by the Reserve Bank of India and or Government from time to time.

61. *Restrictions on other transactions with non-members.*— Save as provided in Section 59 and Section 60, the transactions of a co-operative society with any person other than a member shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

62. *Funds not to be utilized for certain proceedings filed or taken by or against officer in personal capacity.*— Any expenditure incurred from the funds of the society for the purpose of any proceedings filed or taken by or against any officer of the society in the matter of elections to the Board of Directors or misfeasance proceedings shall be recoverable from the said officer by the society if the proceedings are decided against him.

63. *Employees provident fund.*— (1) Every society having more than five employees shall establish for its employees a provident fund into which shall be paid the contribution made by its employees and by the society. Such provident fund shall not be used in the business of the society nor shall it form part of the assets of the society but shall be invested under the provisions of section 57 of this Act and shall be administered in the manner prescribed.

(2) Notwithstanding anything contained in the foregoing sub-section, a provident fund

established by a society to which the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (XIX of 1952) is applicable, shall be governed by that Act.

64. *Writing off of bad debts and losses.*— All loans including interest thereon and recovery charges in respect thereof which are found irrecoverable and are certified as bad debts by the auditor appointed under section 89 shall first be written off against the Bad Debt Fund and the balance, if any, may be written off against the Reserve Fund.

All other dues and accumulated losses or any other loss sustained by the society which cannot be recovered and have been certified as irrecoverable by the auditors may be written off against the Reserve Fund or from the deficit funds and other Reserves created for the purpose:

Provided that—

(1) No bad debts or losses shall be written off without the sanction of the general body and approval of Registrar;

(2) Before any such bad debts or losses are so written off, the society if it is affiliated and indebted to a Central Co-operative Bank shall first obtain the approval of that Bank in writing and also the approval of the Registrar.

CHAPTER VII

Management of Co-operative Societies

65. *Final authority in a co-operative society.*— (1) The final authority in a co-operative society shall vest in the general body of members:

Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body or Representative General Body consisting of delegates of members of the co-operative society elected or selected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as

may be prescribed or as may be specified in the bye-laws of the co-operative society.

(2) Notwithstanding anything contained in sub-section (1) of section 34 each delegate shall have one vote in the affairs of the co-operative society.

66. *Annual general body meeting.*— (1) Every Co-operative Society shall hold the annual general body meeting of its members within nine months from the close of the co-operative year.

(2) At every annual meeting of a society, the Board of Directors shall lay before the society a balance sheet and profit and loss account for the year in the manner, prescribed by Registrar by general or special order for any class of societies.

Explanation.— In the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account; and all the references to profit and loss account, and to "Profit" or "loss" in this Act, shall be construed in relation to such society as references, respectively, to the "income over expenditure" and "excess of expenditure over income."

(3) Subject to the provisions of this Act and the bye-laws, the following matters shall be dealt with by the general body in the general meetings:—

- (a) amendments to bye-laws;
- (b) consideration of—
 - (i) annual audited financial statement of the society and its subsidiaries, if any;
 - (ii) annual report of activities;
 - (iii) auditors report and audit rectification report.
 - (iv) annual operational plan and budget.

(v) approval of excess budgetary expenditure of the previous year;

(vi) long term perspective plan and budget, if any;

(vii) re-audit report or inquiry report, if any;

(d) appointment and removal of statutory auditors as per the direction issued by the Registrar;

(e) Appropriation of net profit/surplus;

(f) Management of deficits/bad debts;

(g) Fixation of remuneration and other facilities to be allowed to the chairman, any directors or members of any committee or internal auditor in connection with his their duties in that capacity or his attendance at related meetings;

(h) Amalgamation, division re-constitution and partnership with any other society;

(i) Sale and disposal of business undertakings;

(j) Dissolution of society;

(k) all other functions expected of the general body under the other provisions of this Act.

67. *Special general meeting.*— (1) A special general meeting may be called within one month.

(i) at any time by the Chairman with the authority of Board; or

(ii) on a requisition in writing to that effect by atleast one-tenth of the total number of members of the society or 100 members or by atleast one-tenth of the total number of elected representatives or by such number of members as specified in the bye-laws for the purpose; or

(iii) at the instance of the Registrar; or

(iv) in the case of a society which is a member of a federal society, at the instance of the committee of such federal society.

(2) Where, any officer or a member of the Board of Director, whose duty is to call such meeting, without reasonable excuse, fails to call such meeting, the Registrar may, by order, declare such member as disqualified for being a member of the Board for such period not exceeding five years, as he may specify in such order or impose on such officer a penalty not exceeding one hundred rupees for each day of default. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned for showing cause as to why the action proposed should not be taken against him.

(3) If a special general meeting of a society is not called in accordance with the requisition referred to in clause (ii) of sub-section (1), the Registrar or any person authorized by him in this behalf, shall have power to call such meeting and that such meeting, when called, shall be deemed to be a meeting duly called by the Board.

(4) The Registrar shall have the power to order that the expenditure incurred in calling a meeting under sub-section (3) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene a meeting.

68. *Filing of returns.*— (1) Every year, within thirty days from the date of holding of the annual general meeting, every society shall file the following documents with the Registrar alongwith the filing fees as may be prescribed:—

(a) Annual audited or unaudited statement of accounts;

(b) Report of the Board of Directors;

(c) Auditors report;

(d) Audit rectification report, if any;

(e) Notice/proceedings of the annual general meeting;

(f) Names and addresses of the directors and their terms of office;

(g) List of amendment to the bye-laws, if any;

(h) Declaration regarding the date of holding of the general meeting and number of members who attended such meetings.

69. *Board of Directors.*— (1) The management of every society shall vest in a Board of Directors constituted in accordance with this Act, the Rules and bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed by this Act, the rules and the bye-laws.

(2) The term of office of the Board of Directors shall not exceed five years from the date of election:

Provided that where in terms of the provisions of the bye-laws of a society, one-third members of its committee or Board of Directors retire every year, the term of office of such a committee or board shall, after the commencement of the Goa Co-operative Societies Act, expire on the date on which retirement of any of its one-third members falls for the first time.

(3) The size of the Board of Directors shall be in accordance with the bye-laws, subject to a maximum of 15 elected directors excluding the chief executive who shall be an ex officio director of the board.

(4) The board shall have a Chairman and such other office bearers as may be provided in the bye-laws who shall be elected from among the elected directors in the manner provided in the bye-laws provided further, that no person shall be, or shall continue to be, Chairman and such other office bearers

as may be provided in the bye-laws, for a consecutive period of more than ten years and at the expiration of that period any such person shall cease to be Chairman and or the office bearer of that society, and shall not be eligible for being re-elected or re-appointed as a Chairman or office bearer, until a period of five years has elapsed after expiry of the aforesaid period of ten years.

If any person resigns his office as Chairman or office bearers at any time within twenty four months of the date on which the consecutive period of ten years would, but for his resignation have been completed, he shall be deemed to have completed the period of ten years on his resignation.

(5) The Board of Directors may set up committees from among its directors and others for specific purpose and such committees shall submit their reports with recommendations or observations to the board for action, within the time specified by the board.

(6) Every director and employee of a society while exercising his power and discharging his duties shall,—

(a) act honestly and in good faith and in the best interest of the society; and

(b) exercise such care, diligence and skill as a reasonably prudent person would exercise in similar circumstances.

(7) A director or employee who is guilty of misappropriation, breach of trust or any other omission or commission, resulting in loss to the society shall be personally liable to make good that loss, without prejudice to such criminal action to which he is liable under the law.

(8) The members of the committee shall be jointly and severally liable for the decisions taken by the committee during its term relating to the business of the society. The members of the committee shall be jointly and severally liable for all the acts and omissions

detrimental to the interest of the society. Every such member shall execute a bond to that effect within fifteen days of his assuming the office, in the form as specified by the State Government by general or special order. The member who fails to execute such bond within the specified period shall be deemed to have vacated his office as a member of the committee:

Provided that, before fixing any responsibility mentioned above, the Registrar shall inspect the records of the society and decide as to whether the losses incurred by the society are on account of acts or omissions on the part of the members of the committee or on account of any natural calamities, accident or any circumstances beyond the control of such members:

Provided further that, any member of the committee who does not agree with any of the resolution or decision of the committee, may express his dissenting opinion which shall be recorded in the proceedings of the meeting and such member shall not be held responsible for the decision embodied in the said resolution or such acts or omissions committed by the committee of that society as per the said resolution. Such dissenting member, if he so desires, may also communicate in writing his dissenting note to the Registrar within fifteen days from the date of the said resolution or decision. Any member, who is not present for the meeting in which the business of the society is transacted, and who has not subsequently confirmed the proceedings of that meeting, such member shall also not be held responsible for any of the business transacted in that meeting of the society:

(9) Provided further that, he shall file the return about his loan transactions and his dealing with the society in the form prescribed by the Registrar from time to time depending upon the type of society.

70. *Election to Board of Directors of societies.*— (1) The elections to the Board of Directors and office bearers of all the societies

and representative general bodies, except those mentioned in sub-section (5) of this section, shall be conducted by the Registrar in such manner as may be prescribed.

(2) Where the Registrar fails to hold election to the board of any society, the term of office of the members of the board of that society shall be deemed to have been extended till the date immediately preceding the date of the first meeting of the newly elected board.

(3) The voting at election shall be by secret ballot.

(4) The expenses for holding any such elections shall be borne by the concerned society.

(5) Societies having paid up share capital of less than rupees fifty lakhs may hold their election in accordance with their bye-laws and election Rules:

Provided that the Registrar may conduct the election of any such society in accordance with the provisions of sub-section (1) to (4) of this section if he is satisfied that circumstances exist for such election. No such election shall, however, be held by the Registrar after the election programme is commenced by the society in accordance with its bye-laws and election rules.

(6) If the society is opting for representative general body it shall be constituted in the following manner:—

(a) The members of the society shall be divided in different groups on territorial or any other basis as may be specified in the bye-laws for the purpose of electing a representative to represent the said group of members at general meetings of the society and to vote on their behalf at such general meetings. The elected representative shall be entitled to vote and contest the election of the Board of Directors of such society on behalf of the group they represent.

(b) The representative group shall be formed in such a manner that the number of the representatives elected shall not be less than fifty and shall not be more than five hundred depending upon the total membership of the society.

(c) The election of representative to the representative general body shall be held six months prior to the election to the Board of Directors of the concerned society and such representatives shall be elected for term of five years and shall be eligible for re-election, if not otherwise disqualified under the provisions of this Act, Rules and Bye-laws.

(d) Any vacancy arising in the post of representative shall be filled by re-election by the concerned group of members within a period of six months. Such re-election shall be held by the Registrar in the same manner.

71. *Vacancies on the Board of Directors.*—

(1) Where there is a vacancy or vacancies on the Board of Directors after election, the remaining directors may exercise all powers of the board or may fill the vacancy for the remainder of the term from the eligible persons through co-option, if such vacancies are not more than one third of the total member of Directors of Board.

(2) In the event of resignation of any member of the Board of Directors on the Society he shall handover his resignation to the Chairman. In case the Chairman himself wants to resign from the Board, he shall hand over his resignation to the Chief Executive Officer who in turn shall place the same in meeting of the Board of Directors for consideration of acceptance. In the event of resignation of office bearer and acceptance of the same, the election of new office bearer shall be done in the same Board meeting. Should there be resignation from majority of the members on the Board of Directors including Chairman, or otherwise such resignations shall be handed over to the Chief

Executive Officer who will forward the same to the Registrar of Coop. Societies.

Explanation.— Office bearer means the Chairman, Vice-Chairman, Secretary, Treasurer or any other designated officer amongst the Board of Directors.

Registrar after receiving the resignation of the majority of the members of the Board of Directors shall assess the situation and decide the course of action either in term of Section 71 or Section 78 of this Act.

(3) Where there is a vacancy or vacancies on the board in excess of one-third of the total number of directors of the board, then all the vacancies shall be filled by re-election in accordance with section 70 of the Act.

(4) The term of office of the directors who are appointed or nominated or co-opted or re-elected on the board to fill the vacancy shall be co-terminus with the term of office of the elected directors notwithstanding the date of their such appointment, nomination or co-option or re-election to fill the vacancy.

(5) The Government may, by general or special order direct such societies or class of societies to reserve not more than three seats, one each for the members of scheduled castes or scheduled tribes or women or any other economically backward classes on the Board of Directors of such societies.

72. Appointment of members of the Board, new Board or administrator where there is failure to elect or where committee does not enter upon office.— (1) Where the Registrar is satisfied that—

(a) at the first constitution of the Board of any society there is a failure to elect all or any of the members of the Board;

(b) the term of the Board of any society or of any of its members has expired or for any other reason election is held and there is failure to elect all or any of the members required to fill the vacancies;

(c) any Board is prevented from entering upon office;

(d) a new Board has failed to enter upon office on the date on which the term of office of the existing Board expired; or

(e) a new Board cannot for any reason be constituted before the expiry of the term of office of the existing Board.

He may, either *suo moto* or on the application of any officer of the society, by order appoint:—

(i) any member or members of the society to be the members of the Board of Directors to fill the vacancy/vacancies.

(ii) a committee of Administrator consisting of not more than three members of the society, or one or more administrators, who need not be the members of the society, to manage the affairs of the society till a new Board enters upon office:

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period:

Provided further that, it shall not be necessary to publish such notice in any case where the Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

(2) The Board of Directors or administrator so appointed shall be subject to the control of the Registrar and obey such instructions as the Registrar may, from time to time give, and shall have power to discharge all or any of the functions of the Board of Directors or of a director, as the case may be, and take all

such actions as may be required to be taken in the interest of the society.

(3) The board or administrator shall make necessary arrangement to constitute a new Board of Directors or for enabling the new Board of Directors to enter upon office as the case may be, within such period or extended period as the Registrar may specify.

73. Disqualification for being Director/Delegate of Representative General Body.—

(1) In addition to such criteria as may be specified in the bye-laws, a person shall be ineligible for being chosen as Director/Delegate of Representative General Body. If he,—

(a) has at any time, lost the right to vote as a member as specified in the bye-laws;

(b) loses the right to continue as member under the provisions of the Act, Rules and Bye-laws;

(c) is a defaulter of any society;

Explanation.— For the purpose of this clause, the term “de faulter” includes—

(i) in the case of a resource society, a member who defaults the payment of the crop loan on the due date;

(ii) in the case of a society which lends term loaning, a member who defaults the payment of any installment of the loan granted to him;

(iii) in the case of any society,—

(a) a member who has taken anamat or advance; or

(b) a member who has purchased any good or commodities on credit or availed himself of any services from the society for which charges are payable: and fails to repay the full amount of such anamat or advance or pay the price of such goods or commodities or charges of such

service, after receipt of notice of demand by him from the concerned society or within thirty days from the date of delivery of goods to him or availing of services by him, whichever is earlier;

(iv) in the case of resource society the principle object of which is to provide credit for non-agricultural purposes, a member who defaults the payment of three consecutive installments of the loan granted;

(v) in the case of co-operative housing societies, a member who defaults the payment of dues to the society within three months from the date of service of notice in writing served by post under certificate of posting demanding the payment of dues;

(d) carries on business of the kind carried on by the society, either in his name or in the name of any member of his family or he or any member of his family is a partner in a firm or a director in a company which carried on business of the kind carried on by the society;

Explanation.— For the purpose of this clause, the expression “family” means a wife, husband, father, mother, brother, sister, son, daughter, son-in-law, or daughter-in-law; or

(e) is a salaried employee of the society or holds any office of profit under the society; or

(f) has incurred any other disqualification under his Act or the rules made thereunder.

(2) A person shall cease to be a director if such person incurs any of the disqualifications specified in sub-section (1) or—

(a) absents himself from three consecutive board meetings without leave of absence;

(b) absents from two consecutives general meetings;

(c) is penalized under this Act.

74. *Disqualification of all Directors of the Board.*— Notwithstanding anything contained in the foregoing section, all the directors of the board shall, be deemed to have incurred disqualification for a period of five years for being chosen as directors and shall be ineligible to continue as directors of the society, if, during their term as directors of the society,—

(a) they did not conduct the annual general meeting within nine months of closure of the society's accounting year;

(b) they did not conduct a special/ requisitioned general meeting within the specified time;

(c) they did not place the accounts for the preceding co-operative year before the general body at its annual general meeting;

(d) they willfully allow any of the disqualified member of the Board of Directors to continue on the Board of Directors.

75. *Power and functions of the Board of Directors.*— (1) Without prejudice to the generality of the powers of the board under section 69, the board shall have powers to—

(a) admit members;

(b) elect and remove the office bearers;

(c) accept or reject the resignation of the directors on the board;

(d) appoint and remove the chief executive;

(e) fix the staff strength;

(f) frame policies concerning—

(i) business of the society;

(ii) recruitment and service conditions of the staff;

(iii) mobilization, utilization and investment of various funds;

(iv) Maintenance of accounting systems;

(v) Management information system;

(vi) Such other subjects and matters necessary for the effective performance of the society;

(g) place the annual report, annual financial statements, annual plan and budget for the approval for the general body;

(h) consider audit and compliance report and place these before the general body;

(i) acquire or dispose of immovable property;

(j) take such other measures or do such other acts as may be prescribed or required under this Act.

(2) The chairperson shall be elected by the board from among the elected members and shall, in accordance with the bye-laws—

(a) preside at meetings of the board and the general body;

(b) have a casting vote in addition to his normal vote in the event of equality of votes on any matters being decided upon by the board, except in the matter of election of office bearers.

(c) exercise such other powers as may be delegated by the board and specified in the policies framed or resolutions adopted by the board.

76. *Power of Removal of Board of Directors or its officer.*— (1) A motion for expressing lack of confidence in the Board of Directors or any of its officer may be made in a special general body meeting convened for the purpose.

(2) The requisition for convening the special general body meeting as above shall not be admissible unless moved in writing by not less one tenth of the total members or by atleast one tenth of the total number of elected representative of a co-operative society. If the motion of no confidence is carried by a simple majority of the members present and voting, the Board of Directors shall be removed and special general body meeting shall also elect an ad hoc committee to take care of the affairs of the co-operative society which shall make arrangement to hold elections to the Board of Directors within ninety days of the date of the appointment of ad hoc committee.

77. Motion of no confidence against officers of societies.— (1) A President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or Director or any other Officer, by whatever designation called, who holds office by virtue of his election to that office shall cease to be such President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or Director or any other Officer, as the case may be, if a motion of no confidence is passed at a special meeting of the Board of Directors of management of society by a simple majority of the total number of the members of Board of Directors who are for the time being entitled to attend and vote at any meeting of the Board of Directors and the office of such President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or Director or any other Officer, as the case may be, shall thereupon be deemed to be vacant.

(2) The requisition for convening special meeting of the Board of Directors for considering such motion of no confidence shall be signed by not less than one-third of the total number of members of the Board of Directors who are for the time being entitled to attend and vote at any meeting of the Board of Directors and shall be delivered to the Registrar:

Provided that no such requisition for a special meeting shall be made within a period

of six months from the date on which any person referred to in sub-section (1) has entered upon his office.

(3) The Registrar shall, within seven days from the date of receipt of requisition under sub-section (2), convene a special meeting of the Board of Directors which shall be held not later than fifteen days from the date of issue of the notice of such meeting.

(4) The special meeting called under sub-section (3) shall be presided over by the Registrar or any person authorized by him in this behalf. The Registrar or such person shall, when presiding over the meeting of the Board of Directors, have the same powers as the President or Chairman when presiding over a Board of Director's meeting has, but shall not have the right to vote.

(5) The meeting called under this section shall not be adjourned for any reason.

(6) Voting at the meeting shall be by raising of hands. The names of the directors voting for, and against the motion, shall be read in the meeting and recorded in the minute book of the special meeting of the Board of Directors:

Provided that if one-third of the directors of the committee present so demand, the voting shall be by secret ballot.

(7) If the motion of no confidence is rejected, no fresh motion of no confidence shall be brought before the Board of Directors within a period of six months from the date on which the motion is rejected.

78. Removal of Board of Directors or member thereof.— (1) If, in the opinion of the Registrar, the Board of Directors of any society or any member of such board persistently makes default or is negligent in the performance of duties imposed on it or him by this Act or the Rules or the Bye-laws or commits any act which is prejudicial to the

interest of the society or its members or willfully disobeys directions issued by the Registrar for the purposes of securing proper implementation of co-operative productions and other development programmes approved or undertaken by the State Government or is otherwise not discharging its or his functions properly, or incurs disqualification under section 74 of the Act, or where a situation has arisen in which the Board of Directors or any member thereof ceases or refuses to discharge its or his functions and the business of society has or is likely to come to a standstill, or where any member as the case may be, an opportunity of stating its or his objections, if any, within 15 days from the date of issue of notice, and after consulting the federal society to which the society is affiliated, by order,—

(a) remove the Board, and

(i) appoint a Board of Directors, consisting of three or more members of the society in its place; or

(ii) appoint one or more administrators, who need not be members of the society and who may be individuals or a corporation to manage the affairs of the society for a period not exceeding two years specified in the order, which period may at the discretion of the Registrar, be extended from time to time, so however that the total period does not exceed four years in the aggregate;

(b) remove the member and appoint any person as member of such Board of Directors in his place or direct the society to elect or appoint a member in his place, for the remainder of the term of office of the member so removed.

(2) When a notice is issued against any committee or member under sub-section (1), if resignation from any office is tendered by the board or member it shall not be valid or effective, until two months have elapsed from the date of issue of the notice or until it is

permitted to be accepted by the Registrar, whichever is earlier.

(3) The Board of Directors or administrator so appointed shall subject to the control of the Registrar and to such instructions as he may from time to time give have power to exercise all or any of the function of the Board of Directors or of any officer of the society and take all such action as may be required in the interest of the society.

The Board of Directors or administrator appointed as aforesaid shall, notwithstanding anything contained in the bye-laws have power to call a special general meeting of the society to review or to reconsider the decision or the resolution taken or passed at the general meetings called by the previous committee or to endorse actions taken by it.

(4) The Registrar may fix the remuneration payable to the administrators and any expenses of management which shall be payable out of the funds of the society within such time or at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals the Registrar may direct the person having custody of the funds of the society to pay to the administrators such remuneration and expenses in priority to any other payment (except land revenue any arrears of land revenue or any sum recoverable from the society as arrears of land revenue) and he shall, so far as the funds in the credit of the society allow, comply with the orders of the Registrar.

(5) If at any time during any period, or extended period referred to in sub-section (1), it appears to the Registrar that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, the Registrar, may by an order direct that the management shall terminate; and on such order being made, the management of the society shall hand over to a new Board duly constituted.

(6) The Board of Directors or administrator shall, at the expiry of the termination of it or

his term of office, arrange for the constitution of a new Board of Directors in accordance with the bye-laws of the society:

Provided that, if a new Board of Directors is not, or cannot be, constituted at the expiry of the term of office of the Board of Administrators, for any reason beyond the control of the Board of Administrators, the term of the office of the Board of Administrators, shall be deemed to be extended until the new Board of Directors duly constituted.

(7) All acts done or purported to be done by the Board of Directors or Administrator during the period the affairs of the society are carried on by the Board of Directors or administrator appointed under sub-section (1), shall be binding on the new Board of Directors.

79. *Meetings and minutes.*— (1) The bye-laws of the society shall specify the frequency of and the manner in which the meetings of the board shall be held, so however that the board shall meet atleast once in a three months.

(2) Every society shall in each co-operative year hold, in addition to any other meetings or general meetings, its annual general meetings within nine months from the close of the co-operative year and not more than fifteen months shall elapse between the date of annual general meetings and that of the next.

(3) The board shall convene a general meeting within thirty days of requisition for convening a general meeting signed by at least one tenth of the members of the society or one tenth of the representatives in case society having representative general body and any such requisition shall contain the proposed agenda and the reasons why the meeting is felt necessary.

(4) Where the board fails to convene the annual or special/requisitioned general meeting within due time, it shall be competent for the Registrar to convene special/requisitioned or annual general meeting, as

the case may be.

(5) Every society shall record in separate minute books, minutes of all proceedings of every general meeting, every meeting of Board of Directors and every committee meeting.

(6) The minutes of the board meetings so recorded shall be signed by the person who chaired the said meeting, or by the chairman of the succeeding meeting, and the minutes of the general meetings shall be signed by the person who chaired the meeting within thirty days from the date of meetings or in the event of his unwillingness or in-ability, by a director duly authorised by the board for the purpose.

80. *Handing over records and property to new Chairman on election.*— (1) On the election of a new Board of Directors and its Chairman, the retiring Chairman in whose place the new Chairman is elected, shall hand over charge of the office and all papers and property, if any, of the society in his possession or any officer thereof, to the new Chairman of the Board of Directors.

(2) If the retiring Chairman fails or refuses to hand over charge, or to hand over the papers and property of the society as aforesaid, the Registrar, or any person authorised by him in this behalf, may, by order in writing, direct him to forthwith handover such charge and property.

(3) If the retiring Chairman to whom a direction has been issued as aforesaid does not comply with such direction, he shall, on conviction, be punished with simple imprisonment which may extend to one month, or with fine which may extend to five thousand rupees, or with both and the Registrar may on the retiring Chairman's failure to comply with such direction, may order for seizing the records and property and handing it over to the new Chairman."

81. *Power to seize the records, etc.*— (1) Where the Registrar is satisfied that the

books and records of a society are likely to be suppressed, tampered with or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar or the person authorized by him in this behalf, may apply to the Executive Magistrate within whose jurisdiction the society is functioning for seizing and taking possession of the records and property of the society.

(2) On receipt of an application under sub-section (1), the Executive Magistrate may authorize any police officer, not below the rank of a inspector, to enter and search any place where the records and property are kept or likely to be kept, and to seize them and hand over possession thereof to the Registrar or the person authorized by him, as the case may be.

82. *Acts of co-operative society not to be invalidated by certain defects.*— No act of a co-operative society or of any board or of any officer shall be deemed to be invalid by reason only of the existence of any defect in procedure or in the constitution of the co-operative society or of the board or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

83. *Directions by the Registrar for successful conduct of business.*— The Registrar may from time to time issue such directions or directives to a co-operative society or a class of co-operative societies as he considers necessary for successful conduct of business and on all matters incidental thereto and such directions or directives shall be binding on them:

Provided that this power shall be limited to co-operative society with Government equity of fifty-one percent or more.

84. *Chief Executive.*— (1) There shall be Chief Executive, by whatever designation called, of every society to be appointed by

the board.

(2) The Chief Executive shall be a member of the board and of the committee as may be constituted under the provisions of bye-laws.

(3) Where the Government has subscribed to the extent of more than fifty percent of the share capital of a society, it shall be obligated on such society to seek prior approval of the Registrar to the appointment of the Chief Executive.

85. *Powers and function of chief executives.*— The Chief Executive shall exercise the power and discharge the functions specified below, namely:—

(a) day-to-day management of the business of the society;

(b) operating the accounts of the society and be responsible for making arrangement for safe custody of the cash;

(c) signing on the documents for and on behalf of the society;

(d) making arrangement for the proper maintenance of various books and records of the society and for the correct preparation and timely submission of the periodical statement and returns in accordance with the provisions of this Act, the Rules and the bye-laws;

(e) convening meetings of the general body of the society, the board and the other committees constituted by the board and maintaining proper record of such meetings;

(f) making appointments to posts in the society in accordance with the directions of the board;

(g) assisting the board in the formulation of policies, objectives and planning;

(h) appraising the board with periodical information necessary for the operations

and functions of the society;

(i) performing such other duties and exercising such other powers as may be prescribed or as may be specified in the bye-laws of the society.

86. *Qualification of Chief Executive Officers or any other officers.*— The qualification for the appointment of the chief executive officers or any other officer of a society shall be such as may be specified in the bye-laws.

87. *Government's power to give directions in the interest of co-operative movement.*—

(1) If the Government, on receipt of a report from the Registrar or otherwise, is satisfied that in the interest of Co-operative movement or for the purpose of securing proper implementation of cooperative production and other development programmes approved or undertaken by the Government or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interest of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies in particular, the Government may issue directions to them from time to time, and all societies or the society concerned as the case may be, shall be bound to comply with such directions.

In case an Urban Credit Society/societies or society whose major operations are to accept deposits and advances fails to adhere to the Financial, Administrative, technical and legal norms as prescribed by the Registrar from time to time, the Registrar on the basis of Audit Report or by conducting an enquiry or inspection into the affairs of such society by the person authorized by him in this behalf, issue the direction to such society prohibiting to accept any type of deposit and advance any type of loans and also to stop any transaction relating to acquisition or disposal of the movable or immovable property, till such time as may be stipulated in order.

(2) The Government may modify or cancel

any directions issued under sub-section (1), and in modifying or cancelling such directions may impose such conditions as it may deem fit.

(3) Where the Registrar is satisfied that any person was responsible for not complying with any directions, the Registrar may, by order:—

(a) If the person is a member of the Board of the society, remove the member from the Board and appoint any other person as member of the Board for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order;

(b) If the person is an employee of the society, direct the Board to remove such person from employment of the society forthwith, and if any member or members of the Board, without any good reason or justification, fail to comply with this order, remove the members and appoint any other person as members and declare them disqualified as provided in clause (a):

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated.

(4) Any order made by the Registrar under this Section shall be final.

CHAPTER VIII

Accounts, Audit, Inspection, Inquiry & Surcharge

88. *Accounts and records.*— (1) Every society shall maintain at its office the following accounts, records and documents, namely:—

(a) copy of its registered bye-laws with amendments made from time to time;

(b) the minute books of the Board of Directors meetings and committee

meetings:

(c) the minute book of the general meetings;

(d) accounts of all sums of money received and expended by the society;

(e) accounts of all purchases and sales of goods made by the society;

(f) accounts of all assets and liabilities of the society;

(g) a register showing memberwise patronage of various services provided by the society;

(h) an up-to-date register of all members;

(i) copies of the annual statement of accounts, directors report and auditors report;

(j) all such other accounts, records and documents as may be required by this Act or other laws.

(2) The books of accounts and other records shall be open for perusal by any directors during business hours.

(3) The books of accounts of every society, together with supporting records and vouchers, shall be preserved for such period as may be prescribed subject to any other laws for the time being in force.

(4) The paid executive of every co-operative society by whatsoever designation he is called, or the president/chairperson or any other office bearer as provided in the bye-laws of the co-operative society, if there is no such paid executive for that co-operative society, shall be bound to keep, maintain or cause to be maintained such accounts and books relating to that co-operative society in such manner as may be prescribed and shall be responsible for the correct up-to-date maintenance of such accounts and books, for producing or causing production of the same when called for in connection with audit,

inspection or inquiry.

(5) If such accounts and books are not maintained, the Registrar may direct the person who is responsible to bring the accounts and books up-to-date to make them up-to-date, and he shall be bound to comply with such direction within the period specified therein.

(6) If the person fails to comply with the direction under sub-section (2), the Registrar may ask the Board of the co-operative society for taking action against such person including suspension for such period, if necessary, as he may consider necessary and authorize any person to take action for bringing such accounts and books up-to-date at the expense of the co-operative society and such expenses shall be recoverable from the co-operative society as if it were an arrear of land revenue.

(7) Where the Registrar takes action under sub-section (6), the Registrar may call upon the person concerned whom he considers to be responsible for not complying with the direction made under sub-section (6) and after giving such person an opportunity of being heard, may require him to pay to the co-operative society the expenses paid or payable by him to the Government as a result of his failure to take action.

(8) Every society, immediately after close of the financial year, shall prepare the Receipt and Payment statements/Trial Balance/Trading/Manufacturing Accounts, Profit and Loss Account/Income and Expenditure Account and Balance Sheet and shall submit the same to the Registrar, within a period of 45 days prior to filing the returns as specified under section 68.

89. *Audit.*— (1) The Registrar shall constitute a panel of auditors from among the chartered accountants within the meaning of the Charter Accountants Act, 1949 (XXXVIII of 1949) and who are fellow members of the Institute of Chartered Accountants of India, holding certificate of practice, who have their registered address

within the State of Goa, and retired officers of the Government, who are holding higher diploma in co-operation or having working experience of ten years in co-operative Audit.

(2) The Registrar shall appoint auditors to audit the account of State Aided Societies, and other societies as may be notified from time to time, from among the departmental auditors or the panel of auditors:

“Provided that the Registrar on his own or on the request of any society which is not notified under sub-section (2) may conduct the audit through the departmental auditors.

(3) A mutually aided society which is not notified under sub-section (2) above shall appoint an auditor from among the panel of auditors by resolution in the annual general meeting for the immediate succeeding co-op. year and such appointment shall be valid till the conclusion of next annual general meeting:

Provided that the first auditor to a newly registered society shall be appointed from among the said panel by the Registrar of the society and such appointment shall be valid till the conclusion of the first annual general meeting:

Provided, further that no society shall appoint same auditor consequently for more than 2 years.

(4) The remuneration of all auditors from the panel of auditor shall be fixed by the Registrar.

(5) The auditor shall be given notice of every general meeting and will be entitled to attend the meeting.

(6) Where a mutually aided society fails to get its accounts audited within nine months from the end of the co-operative year, the Registrar shall be empowered to appoint the auditor and get the accounts audited.

(7) If the Registrar finds it necessary or

expedient to re-audit any or all accounts of the society, he may, by order, direct such re-audit and the provisions of this Act, applicable to audit of accounts of society, shall apply to such re-audit.

90. *Powers and duties of the auditor.*— (1) Every auditor of a society shall have right to access at all times to the books of accounts and vouchers of the society, whether maintained at the head office or at the branches or elsewhere, and shall be entitled to require from the society such information and explanations as the auditor may think necessary for the performance of his duties as an auditor.

(2) The auditor shall, after examination of the books of accounts and records, report:—

(a) Whether the society has maintained proper books of accounts and records as required by this Act;

(b) Whether he has obtained all the information and explanations, which to the best of his knowledge and belief were necessary for the purpose of his audit;

(c) Whether the final statement of accounts prepared are in agreement with the books of accounts and records maintained;

(d) Whether the final statement of accounts gives true and fair view,—

(i) in the case of balance sheet, of the state of affairs of the society as at the end of the co-operative year;

(ii) in the case of income and expenditure account, of the surplus or deficit for the co-operative year.

(e) Whether report of the branch auditors, not audited by him has been considered, and how he has dealt with the same in preparing his report.

(3) The auditor of the society shall also examine the following before he submits his

report,—

(a) Whether a society has maintained proper records showing particulars including quantitative details and situation of fixed assets;

(b) Whether the fixed assets have been periodically physically verified by the management of the society and the discrepancy, if any, is considered in the books;

(c) Whether loans and advances made by the society on the basis of security have been properly secured and whether the terms and conditions are not prejudicial to the interest of the society;

(d) Whether any personal expenses have been charged to income and expenditure account;

(e) Whether capital expenses have been charged to income and expenditure account;

(f) Whether any expenditure incurred by the society is not in accordance with or not in consonance with its objectives;

(g) Whether the society has utilised the financial assistance granted by the Government or any Government undertakings, for the purpose it is granted;

(h) Whether there are adequate internal control procedures, commensurate with the size of the society and nature of its business;

(i) Whether any purchases and sales are made during the year exceeding Rs. 50,000/- in aggregate from any relative of any director or any company or firm in which directors are interested;

(j) Whether any manpower requirement is assessed and recruited as per the

recruitment rules.

(4) The auditor of the society shall submit a copy of the audit report together with the accounts to the Registrar in such form as may be specified by the Registrar, within thirty days from the date of the audit.

(5) On completion of the statutory audit, the auditor shall award audit classification to the society whose accounts he has audited in accordance with the instructions issued by the Registrar from time to time.

(6) The Registrar or the person authorized by him to conduct the audit may summon any person in possession or responsible for the custody of any such books, accounts, papers, documents to produce the same at the headquarters of the society or any branch thereof."

(7) The auditor shall discuss his findings during the course of audit with the Board of Directors and issue certificate to the effect that he has duly notified his findings/ observations to the Board of Directors of the society.

91. *Rectification of defect in accounts.*— If the result of the audit held under the last preceding section discloses any defects in the working of a society, the society shall within three months from the date of receipt of the audit report, explain to the Registrar the defects or the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities, and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its officer to take such action, as may be specified in the order to remedy the defects, within the time specified therein. Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society.

92. *Inquiry or Inspection of societies.*— (1) The Registrar may, on his own motion, himself, or by a person duly authorized by him in writing in this behalf, or on the request

made by a creditor or *federal society* or not less than one third of the total number of members of the Board of Directors or not less than one fifth of the total number of members, of a society, undertake inspection of a society and authorize any person, by order in writing, to make an inspection and inquiry into the constitution, working and financial condition of such society and submit a report thereon.

(2) Where a complaint is made by a member of society in writing about the affairs of a society or Board of Directors, the Registrar or any person authorized by him in this regard who shall be not below the rank of Deputy Registrar is *prima facie* satisfied, after affording an opportunity of being heard, that an inquiry is required to be instituted, he may, order an inquiry to be made by a person not below the rank of Co-operative Officer or special auditor.

(3) For the purpose of inspection/inquiry under sub-sections (1) and (2), the person conducting inspection or inquiry shall, at all times, have access to all books of accounts, papers, vouchers, securities, stock and other documents of that society and may, in the event of serious irregularities discovered during inquiry and inspection, take the same into custody and report to the Registrar. He shall have power to verify the cash balance of the society. The Registrar may call a meeting of the Board of Directors or a general body meeting of the society, as he may deem fit.

(4) Every officer or member of Board of Directors shall furnish such information with regard to working of the society as the Registrar or the person making inquiry or inspection may require.

(5) A copy of the report of the inquiry and/or inspection carried out under this section shall be forwarded to the society within a period of ninety days from the date of completion of such inquiry and/or inspection.

93. *Cost of re-audit, inspection, inquiry.*—

Where a re-audit held under section 89 or an inspection or an inquiry is held under section 92, the Registrar may apportion the costs or such part of the costs as he may think fit, between the co-operative society, the members or creditor demanding re-audit or an inspection or an inquiry if any and the officers or former officers and the members or past members of the co-operative society against whom the re-audit, inspection or inquiry is ordered:

Provided that—

(a) no order of the apportionment of the costs shall be made under this section unless the co-operative society or the person liable to pay the costs thereunder has had reasonable opportunity of being heard;

(b) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned;

(c) no expenditure from the funds of a society shall be incurred for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under the foregoing sub-section.

94. *Recovery of cost.*— Any sum awarded by way of costs under section 93 may be recovered, as if it were an arrears of land revenue.

95. *Registrar to bring defects disclosed in re-audit, inspection or inquiry.*— The Registrar shall draw the attention of the co-operative society to the defects noticed in every re-audit conducted under section 89 or inquiry/inspection held under section 92 and if the co-operative society is affiliated to federal co-operative society also draw the attention of that federal co-operative society and may make an order directing the co-operative society or its officers to take such action and within such time as may be specified therein to remedy such defects.

96. *Power of the Registrar to assess*

damages against delinquent promoters etc.—

(1) If in the course of an audit, re-audit, inspection, inquiry or the winding up of a co-operative society, it is found that any person who is or was entrusted with the organization or management of such co-operative society or who is or has at any time been an officer or an employee of the co-operative society had made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the co-operative society by breach of trust or willful negligence or has misappropriated or fraudulently retained any money or other property belonging to such co-operative society, the Registrar may, of his own motion, or on the application of the Board, liquidator or any creditor, inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar, or the person authorised by him may, after giving the person concerned an opportunity of being heard make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate or to pay contribution and costs or compensation to such extent as the Registrar, or the person authorised by him may consider just and equitable.

(3) Any sum ordered under this section to be repaid to co-operative society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf as prescribed in the rules.

(4) This section shall apply notwithstanding that such person or officer or servant have incurred criminal liability by this Act.

97. *Power to summon and examine documents and persons, etc.—* (1) The Registrar, or the auditor or any person authorized by either of them to exercise any powers under this Act shall at all reasonable times have free access to the books, accounts, documents, records, securities, cash and other properties belonging to, or in the custody of the co-operative society and may

summon any person in possession of, or responsible for the custody of any such books, accounts, documents, records, securities, cash or other properties, to produce all or any of them at any place at the headquarters of the co-operative society or any branch thereof.

(2) The Registrar or any other subordinate official authorized by him to exercise any powers under this Act—

(a) may summon any person who, he has reason to believe has knowledge of any of the affairs of the co-operative society to appear before him at the headquarters of the co-operative society or any branch thereof or at any other place specified by the Registrar, and may examine that person on oath;

(b) may seize the books, accounts or documents belonging to, or in the custody of, the co-operative society, if he considers that such seizure is necessary to ensure safety of such books, accounts or documents, and shall give the person from whose custody the books, accounts or documents have been seized, a receipt for the same:

Provided that the books, accounts or documents so seized shall be retained by him so long as may be necessary:

Provided further that the books, accounts or documents so seized shall not be retained for more than sixty days at a time except with the permission of the next higher authority.

CHAPTER-IX

Disputes and Arbitration

98. *Dispute.—* (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, elections of the Board of Directors and its office bearers, conduct of general meetings, management or business of a

society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, as the case may be, to the Registrar, if both the parties thereto are one or other of the following:—

(a) a society, its Board, any past Board, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society;

(b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society;

(c) a person, other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions and any person claiming through such a person;

(d) a surety of a member, past member, or a deceased member, or a person other than a member who has been granted a loan by the society whether such a surety is or is not a member of the society;

(e) any other society, or the Liquidator of such a society.

(2) When any question arises whether for the purposes of the foregoing sub-section a matter referred to for decision is a dispute or not, the question shall be considered by the Registrar, whose decision shall be final.

(3) Save as otherwise provided under section 105, no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

Explanation 1.— A dispute between the Liquidator of a society and the members of the same society shall not be referred to the Registrar under the provisions of

sub-section (1).

Explanation 2.— For the purpose of this section, a dispute shall include,—

(i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past member or the nominee, heir or legal representative of a deceased member or servant or employee whether such a debt or demand be admitted or not;

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan of a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not;

(iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its Board of Directors, past or present, whether such loss be admitted or not;

(iv) a refusal or failure by a member, past member or a nominee, heir or legal representative of deceased member to deliver possession to a society of land or any other asset resumed by it for breach of conditions of the assignment.

99. *Powers of an apex co-operative bank to proceed against members of a society for recovery of moneys due to it from such society.*— (1) If any society is unable to pay its debts to Apex Bank by reasons of any of its members committing default in the payment of the moneys due by them to the society, the apex co-operative bank may direct such society to refer to the Registrar under section 98, the dispute between the society and defaulting members thereof:

Provided that if such society fails to refer the dispute as aforesaid within a period of

ninety days from the date of receipt of such direction, the apex co-operative bank itself may refer to the Registrar the said dispute:

Provided further that, in case of a reference, the bye-laws of the defaulting society shall apply as if all references to the society or its Board of Directors in the said bye-laws were references to the apex co-operative bank.

(2) Where a apex co-operative bank has obtained a decree or award against any society in respect of the moneys due to it by such society, the apex co-operative bank may proceed to recover such moneys firstly from the assets of that society and secondly from the members of that society to the extent of the moneys due by them to that society.

100. *Limitation.*— (1) Notwithstanding anything contained in the Limitation Act, 1963 (Central Act 36 of 1963), but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under section 98 shall,—

(a) when the dispute relates to the recovery of any sum, including interest thereon, due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;

(b) when the dispute is between a society or its Board of Directors, and any past Board of Directors, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society or a member, or past member or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of the either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) when the dispute is in respect of

any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 125 or in respect of which a nominated Board of Directors or an administrator has been appointed under section 72 or 78, be six years from the date of the order issued under section 125, or section 72 or 78 as the case may be;

(d) when the dispute is in respect of an election Board or Board member or an office-bearer of the society, be one month from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to the Registrar under the last preceding section shall be regulated by the provisions of the Limitation Act, 1963 (Central Act 36 of 1963), as if the dispute is a suit and the Registrar a Civil Court.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Registrar may admit a dispute after the expiry of the limitation period, if the applicant satisfies the Registrar that he has sufficient cause for not referring the dispute within such period and the dispute so admitted shall be dispute which shall not be barred on the ground that the period of limitation had expired.

101. *Settlement of disputes.*— (1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 98, the Registrar shall, subject to the rules, decide the dispute himself or refer it for disposal to a nominee, or a Board of Nominees, or officers of the society as specified under section 147 (2) appointed by the Registrar.

(2) Where any dispute is referred under the foregoing sub-section for decision to the Registrar's nominee or Board of Nominees, the Registrar may, at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or Board of

Nominees, and may decide the dispute himself, or refer it again, for decision to any other nominee, or Board of Nominees, appointed by him.

(3) Notwithstanding anything contained in section 98, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted within two months from the date of the Registrar's order suspending proceedings, the Registrar shall take action as is provided in sub-section (1).

102. Procedure for settlement of disputes and power of Registrar, his nominee or Board of Nominees.— (1) The Registrar, or his nominee or Board of Nominees, hearing a dispute under the last preceding section shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908 (5 of 1908).

(2) Except with the permission of the Registrar or his nominee or Board of Nominees, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3) (a) If the Registrar or his nominee or Board of Nominees is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is party to a dispute, he may order that the person who has acquired the interest in the property may join as a party to the dispute, and any decision that may be passed on the reference by the Registrar or his nominee or Board of Nominees shall be

binding on the party so joined, in the same manner as if he was an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person or where all the defendants have not been included, the Registrar or his nominee or Board of Nominees may, at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

(c) The Registrar, his nominee or Board of Nominees may, at any stage of the proceeding, either upon or without the application of either party, and upon such terms as may appear to the Registrar, his nominee or Board of Nominees, as the case may be, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, his nominee or Board of Nominees, as the case may be, may be necessary in order to enable the Registrar, his nominee or Board of Nominees effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim for all or any of such reliefs, but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar, his nominee or Board of Nominees, as the case may be.

103. Attachment before award and interlocutory orders.— (1) Where a dispute has been referred to the Registrar or his nominee or Board of Nominees under section 98, or under section 101, the Registrar or his nominee or Board of Nominees, if satisfied on enquiry or otherwise that party to such dispute with intent to defeat, delay or

obstruct the execution of any award or carrying out of any order that may be made,—

(a) is about to dispose of whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, may, unless adequate security is furnished, direct conditional attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court.

(2) Where the Registrar, his nominee or Board of Nominees direct attachment of property under the foregoing sub-section, he shall issue a notice calling upon the person whose property is so attached to furnish security which he thinks adequate within a specified period and if the person fails to provide the security so demanded, the Registrar or his nominee or Board of Nominees may confirm the order and, after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section, may direct the disposal of the property so attached towards the claim if awarded.

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of person not party to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

(4) The Registrar, his nominee or Board of Nominees, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision in a dispute referred to in sub-section (1) as may appear to be just and convenient.

104. *Decision of Registrar or his nominee*

or Board of Nominees.— When a dispute is referred to arbitration, the Registrar or his nominee or Board of Nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute as far as possible within one year, on the expenses incurred by the parties to the dispute in connection with the proceedings, and the fees and expenses payable to the Registrar or his nominee or, as the case may be, Board of Nominees. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar, and shall, subject to appeal or review or revision, be binding on the parties to the dispute.

105. *Appeal against decision of Registrar or his nominee or Board of Nominees.*— Any party aggrieved by any decision of the Registrar or his nominee or Board of Nominees under the last preceding section, or an order passed under section 103 may, within two months from the date of the decision or order, appeal to the Tribunal.

106. *Money how recovered.*— Every order passed by the Registrar or his nominee or Board of Nominees under sections 96, 103 or section 104, every order passed in appeal under the last preceding section,—

(a) on a certificate signed by the Registrar be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such Court; or

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

Provided that, any application for the recovery in such manner of any such sum shall be made to the Collector, and shall be accompanied by a certificate signed by the Registrar, or by any Assistant Registrar as duly authorized by the Registrar in this behalf. Such application shall be made within twelve

years from the date of the order.

107. *Private transfer of property made after issue of certificate void against society.*— Any private transfer or delivery of, or encumbrance or charge on, property, made or created after the issue of certificate of the Registrar, or Assistant Registrar, as the case may be, under section 106 shall be null and void as against the society on whose application the said certificate was issued.

108. *Transfer of property which cannot be sold.*— (1) When in any execution of an order sought to be executed under section 110, any property cannot be sold for want of buyers, on conducting three consecutive auctions, if such property is in occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter, subsequently to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (a) or (b) of section 110, the Court or the Collector or the Registrar, as the case may be, may, notwithstanding anything contained in any law for the time being in force, direct that the said property or any portion thereof, shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed.

(2) Where property is transferred to the society under the foregoing sub-section, or where property is sold under section 110, the Court, the Collector or the Registrar, as the case may be, may, in accordance with rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to such rules as may be made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Collector or the Registrar, as the case may be, and the said society subject to the general or special orders of the State Government, the Collector

or the Registrar may delegate to an officer, not below the rank of the Deputy Collector or the Assistant Registrar, power exercisable by the Collector or the Registrar under this section.

109. *Recovery of any sum advanced by a resource society.*— (1) Notwithstanding anything contained in sections 98 and 110, on an application made by a resource society for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing statement of accounts in respect of such arrears, the Registrar may after making such inquiries as he may deem fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(2) Where the Registrar is satisfied that a resource society has failed to take action under the foregoing sub-section in respect of arrears of any sum advanced by it to any of its members, the Registrar may on his own motion, after making such inquiries as he may deem fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(3) A certificate granted by the Registrar under sub-section (1) or sub-section (2) shall be final and conclusive proof of the arrears stated to be due therein and the same shall be recoverable according to the law for the time being in force for the recovery of arrears of land revenue.

110. *Execution of awards and Registrar's powers to recover certain sums by attachment and sale of property.*— (1) The Registrar or any officer subordinate to him or an officer of a Federal Institution or an officer appointed under section 147(2) of this Act duly empowered by him in this behalf, may subject to such rules as may be made by the State Government, but without prejudice to any other mode of recovery provided by or under this Act, recover,—

(a) any amount due under a decree or order of Civil Court obtained by a

society;

(b) any amount due under a decision, award or order of the Registrar, Arbitrator or Liquidator or Tribunal;

(c) any sum awarded by way of costs under this Act;

(d) any sum ordered to be paid under this Act as a contribution to the assets of the society together with interest, if any due on such amount or sum and costs of process by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(2) The Registrar or the officer empowered by him shall be deemed, when exercising the powers under the foregoing sub-section or when passing any orders on any application made to him for such recovery, to be a Civil Court for the purpose of Article 136 of the First Schedule to the Indian Limitation Act, 1963 (Central Act 36 of 1963).

CHAPTER - X

Special Provisions for Co-operative Housing Societies

111. *Application.*— This Chapter shall apply to:—

(a) all co-operative housing societies registered or deemed to be registered before the commencement of the Goa Co-operative Societies Act, 2009, or under any law relating to co-operative societies in force in the State of Goa, and the registration of which has not been cancelled before such commencement, and

(b) all co-operative housing societies registered or deemed to be registered under this Act.

112. *Definitions.*— In this Chapter, unless the context otherwise requires,—

(a) “allottee” means a member of a

co-operative housing society to whom a plot of land, or site or a tenement in a building held by it, is allotted by the society;

(b) “building fund” means a fund created by the collection of contribution from members for—

(i) the purchase and or acquisition of land; or

(ii) the land development; or

(iii) the construction of a dwelling unit or building; or

(iv) the purpose of providing any other common amenities to achieve the objectives of the society.

(c) “building maintenance fund” means a fund created by collection of the contributions from its members at such rate as may be specified in the bye-laws for carrying out repairs or structural additions, improvements or alterations to the property of the co-operative housing society which are likely to increase the life of such property and to maintain the property of the said society in good and habitable condition at all times.

(d) “commercial unit” means office, shop, godown, garage or such other premises used for commercial or industrial purpose;

(e) “co-operative housing society” means a society,—

(i) registered or deemed to be registered as a co-operative housing society under any law relating to co-operative societies in force in the State of Goa;

(ii) the principal object of which is to provide its members open plots, dwelling units or commercial units (whether in a multi-storeyed building or otherwise) and in case where open plots or dwelling units are already acquired, to provide

its members common amenities and services including services relating to the arrangement of finances facilitating construction of dwelling units in order to solve their needs of dwelling units through mutual aid in accordance with the co-operative principles, and includes a co-ownership housing society, co-partnership housing society, co-operative housing maintenance society, and any other co-operative society of like nature and purpose;

(f) “co-ownership housing society” means a society in which the land is held either on lease-hold or free-hold basis by the society and the houses constructed on it, are owned or to be owned by its members;

(g) “co-partnership housing society” means a society in which land and buildings are held by the society on lease-hold or free-hold basis and members are allotted flats, tenements or such other premises in such buildings with a right to occupy the same in accordance with the bye-laws;

(h) “co-operative house mortgage society” means a credit society which lends money to its members for a certain period of time against certain securities for the construction of houses for their dwellings;

(i) “co-operative housing maintenance society” means a society formed by the owners of dwelling units or commercial units in a building for the purpose of maintenance of the building and provision of common amenities;

(j) “dwelling unit” includes a house, flat, apartment, and tenement for the purpose of dwelling;

(k) “external repairs” means all structural repairs and repairs required to be carried out to the property of the society the use of which is common to two or more

members, and includes repairs of common walls, external walls, roads, lifts, water tanks, electric pumps, staircases, terraces and parapet walls, roofs of flats, street lights, electric lines, all leakages of water, water pipelines, compound walls, septic tanks, fencing, drainage, gates and other like common amenities;

(l) “internal repairs” means such repairs as are not external repairs;

(m) “occupancy right” means the right of an allottee to possess and use the plot of land, site or dwelling unit or commercial unit allotted to him with power to give it on hire or on leave and licence or to mortgage it or to donate or to transmit it by Will or by inheritance or to transfer it;

(n) “outgoing” means ground rent, if any, municipal and other local taxes, cesses, charges, water charges, electricity charges, revenue assessments, expenses of management and maintenance, repairs to or replacement of any property insurance premium, other like expenses in respect of the society;

(o) “sub-allottee” means an individual or body of persons, whether incorporated or not in whose favour the possession of the dwelling unit or part thereof is transferred for a period of not less than three months, and includes a tenant, licensee, paying guest and caretaker thereof.

113. *Limit on membership.*— A co-operative housing society shall not admit to its membership persons exceeding the number of dwelling units and commercial units or plots, as the case may be, available for allotment in the society.

114. *Allotment of plots, dwelling units and commercial units.*— (1) Every member of a society, whether registered before or after the commencement of this Act, to whom plots of land dwelling units or commercial units have been allotted, shall be issued certificate of allotment by the society under its seal and

signature in such form as may be prescribed.

(2) Any allotment (including re-allotment) of a plot of land or dwelling unit or commercial unit in a building of a co-operative housing society to its member in accordance with its bye-laws shall entitle such member to hold such plot of land or dwelling unit or commercial unit with such title or interest as may be specified in the bye-laws and the certificate of allotment shall be conclusive evidence of such title or interest in favour of such member.

(3) A member of a co-operative housing society shall not be entitled to any title or interest in any plot of land or dwelling unit or commercial unit in a building of the society until he has made such payment as may be specified by the society towards the cost of such plot of land or construction of such dwelling unit or commercial unit or both, as the case may be, to the co-operative housing society.

(4) The right, title and interest in a plot of land or dwelling unit or commercial unit in a building of the society (including the undivided interest in common areas and facilities) shall constitute a heritable and transferable immovable property within the meaning of any law for the time being in force:

Provided that notwithstanding anything contained in any other law for the time being in force, such land or building shall not be partitioned for any purpose whatsoever.

(5) Every member of a co-operative housing society shall be entitled to an undivided interest in the common areas and facilities pertaining to the plot of land or dwelling unit or commercial unit allotted to him.

(6) Every member of a co-operative housing society in whose favour a plot of land or a dwelling unit or commercial unit has been allotted shall have the right to use the common areas and facilities as aforesaid for the purpose for which they are intended

without interfering with or encroaching upon the lawful rights of other members in whose favour similar allotment has been made.

(7) The work relating to the maintenance, repair and replacement of the common areas and facilities (including additions or improvements thereto) shall be carried out in accordance with the bye-laws of the co-operative housing society and the building rules of the concerned municipality, or other competent authority as the case may be, and the costs thereof shall be apportioned amongst the members of the co-operative housing society in such manner as may be specified in the bye-laws of that society.

115. *Rights of member in a co-ownership housing society.*— In a co-ownership housing society, the society which holds free-hold or lease-hold land, shall execute deeds of lease or sub-lease, as the case may be, in favour of its members to whom the plots are allotted for such period and with such covenants as may be specified in the bye-laws of the society.

116. *Provisions for nomination.*— (1) Every member of a co-operative housing society shall nominate a person or persons to whom the occupancy right shall be transferred in the event of his death.

(2) The member shall have the right to change the nomination at any time.

(3) There shall not be more than one nomination subsisting at any time.

(4) On the death of the member, only occupancy right shall vest in the nominee and the succession to the property shall be governed by the law relating to Succession and Wills.

117. *Restriction on letting out.*— (1) Notwithstanding anything contained in any other law for the time being in force, no member of a co-operative housing society who has been allotted a plot of land or dwelling unit in a building over a period of three months shall

part with the possession of such plot or dwelling unit as the case may be, without the written consent of the Board of Directors of the society. On an application made in this behalf by the member concerned, the Board of Directors may subject to payment of prescribed non-occupancy fees to the society give its consent or refuse such consent for reasons to be recorded in writing and communicate its decision to the member within thirty days from the date of receipt of his application.

(2) If the Board of Directors fails to take decision on the application within thirty days from the date of its receipt or refuses such consent, the member shall have a right to appeal to the Registrar.

118. *Restriction on transfer of share or interest of a member.*— Subject to the provisions of this Act, in the case of a co-operative housing society, no transfer of share or interest of a member in the society or the occupancy right, except the transfer to his heir or a nominee, shall be effective, unless:—

(a) the transferor vacate and gives possession of the premises to the transferee, provided that the transferor may give possession of the premises pending the society's approval for transfer;

(b) the dues of the society are paid or transferred to the transferee with the consent of the society;

(c) the transfer fees or transfer charge as may be specified in the society's bye-laws, are duly paid;

(d) the previous permission of the society has been obtained in this behalf in writing and the transferee has been admitted as member.

119. *Permission for transfer of occupancy right not to be ordinarily refused and provision for appeal.*— (1) No co-operative housing society shall ordinarily refuse to grant to its member permission for transfer for his

occupancy right in the property of the society, unless the transferee is not qualified to be a member under the provisions of this Act, rules and bye-laws of the society:

Provided that nothing contained in any agreement, contract or the said bye-laws regarding eligibility for membership stipulated therein shall apply to nominee, heir or legal representatives of the deceased member for his admission to membership of the society.

(2) The decision of the co-operative housing society on any application for permission to such transfer shall be communicated to the member within fifteen days from the date of the decision or within fifteen days from the date of receipt of the application whichever is earlier.

(3) Any person aggrieved by the decision of the co-operative housing society refusing permission for such transfer may, within thirty days from the date on which the refusal of permission is communicated to him, appeal to the Registrar.

120. *Creation, maintenance and utilization of building maintenance fund.*— (1) A co-operative housing society, which owns land or building, shall maintain a building maintenance fund by collecting from its members contributions to the extent and in the manner as may be provided in its bye-laws.

(2) The building maintenance fund shall be utilised only for the purposes of repairs and maintenance of the building and for carrying out such structural additions and alterations to the building which are likely to increase its life.

(3) The building maintenance fund of the co-operative housing society, when not required by it for its immediate use, shall ordinarily be invested with the apex housing finance society of the State.

121. *Miscellaneous.*— (1) Notwithstanding

anything contained in the laws relating to rents or any other corresponding law for the time being in force in any part of the State, any dispute relating to the occupation or recovery of possession of any plot, dwelling unit or commercial unit in any society, the recovery of dues payable by a member or sub-allottee to a co-operative housing society or vice versa arising on or after the date of commencement of this Act and suits or proceedings pending in any other Court on the date after such commencement, shall be deemed to be a dispute within the meaning of section 98 of this Act, and shall be decided in accordance with the provisions of this Act, and no Court or other Tribunal or Authority shall have jurisdiction to entertain and decide any proceedings in respect of such dispute.

(2) Notwithstanding anything contained in the law relating to rents or any other corresponding law for the time being in force, no licensee, caretaker, or sub-allottee who is occupying the dwelling unit or commercial unit, or plot of land in a co-operative housing society shall be a tenant of such dwelling unit or commercial unit or plot of land within the meaning of that law.

122. *Unit of assessment.*— Notwithstanding anything contained in any other law for the time being in force, each plot of land or dwelling unit or commercial unit in a building (including the undivided interest in the common areas or facilities) shall constitute a separate unit for the purpose of assessment of rates and taxes to be realized by a local authority or any other authority competent in this behalf.

123. *Certain portion of land acquired by the Government for housing to be utilized on co-operative principles.*— Where the Government or any Development Authority under its control acquires any land for the purpose of housing, then, having regard to the purpose of such acquisition and all other relevant factors in this behalf, the Government shall endeavour to utilise, at least one-third portion of the land so acquired, on

co-operative principles for the said purpose.

CHAPTER - XI

Winding up of Co-operative Societies (Liquidation)

124. *Dissolution of co-operative society by members.*— (1) A co-operative society may by special resolution, authorise its own dissolution, a notice of the general body meeting called for the purpose shall also be sent by registered post with an invitation to attend, to the Registrar, to creditors, if any, to any co-operative society to which the co-operative society is affiliated, and to any co-operative society with which a partnership contract has been entered into.

(2) The invitee under sub-section (1) shall have the right only to make a presentation to the general body, if he wishes to do so, on the issue of the proposed dissolution.

(3) Within fifteen days of such authorization for dissolution, the co-operative society shall send to the Registrar a copy by registered post of the authorization to dissolve the co-operative society.

(4) The authorization approved under sub-section (1) shall set out—

(a) the assets and liabilities of the co-operative society;

(b) the claims of creditors;

(c) the number of members;

(d) the nature and extent of the members interest in the co-operative society; and

(e) the name and address of the liquidator appointed by the co-operative society.

(5) When the Registrar receives the special resolution passed under sub-section (1)—

(a) where he is satisfied that the co-operative society has no assets or liabilities, he shall dissolve the co-operative

society, delete its name from the Registrar of co-operative societies and issue a certificate of dissolution of such co-operative society; or

(b) he shall, within thirty days of the date of receipt of such resolution, cause at the expense of the co-operative society a notice of the special resolution to be published in the Official Gazette and in a newspaper in Konkani, Marathi and English.

(6) In the case of dissolution, the Registrar may require, till the certificate of dissolution is issued by him, from the liquidator appointed by the co-operative society or from any other person who is required to furnish information, a periodical return showing—

(a) the progress of dissolution;

(b) the distribution of any undistributed surplus or reserve; and

(c) any other relevant information.

125. *Dissolution of co-operative society by the Registrar.*— (1) Where the Registrar has reason to believe that a co-operative society—

(a) has not commenced business within one hundred eighty days from the date of its registration or the number of members has been reduced to less than fifteen;

(b) has not carried on business for two consecutive years in accordance with the bye-laws and the co-operative principles; or

(c) has not got the accounts of the society audited since last three or more consecutive years,

he shall send to the co-operative society a letter by registered post, inquiring whether the co-operative society is carrying on business.

(2) Where the Registrar—

(i) does not within thirty days of the date

of sending a letter under sub-section (1), receive a reply to the letter, he shall, within fifteen days after the expiry of said thirty days, send to the co-operative society a letter stating that—

(a) a letter was sent to the co-operative society under sub-section (1);

(b) no reply to the letter has been received by him within thirty days from the date of sending it;

(ii) receives a reply from the co-operative society that it is not carrying on business or got its accounts audited; or

(iii) does not, within thirty days from the date he sent a letter under sub-section (1) receive a reply to that letter,

he shall publish the notice and send to the co-operative society a notice that, at the expiry of thirty days from the date of the notice, the co-operative society shall, unless cause is shown to the contrary, be dissolved and have its name deleted from the register of co-operative societies.

(3) On the expiry of thirty days from the date of issue of the letter under sub-section (2), the Registrar shall unless cause to the contrary is previously shown by the co-operative society—

(a) where he is satisfied that the co-operative society has no assets or liabilities, dissolve the co-operative society, delete its name from the register of co-operative societies and issue a certificate of dissolution of such co-operative society; or

(b) appoint a liquidator under section 127 to wind up the affairs of the co-operative society.

(4) Where a co-operative society fails to file returns and furnish information, as required by section 68, the Registrar shall send a requisition under sub-section (1) of

section 67 to the Board to call a special general body meeting for the purpose of considering the annual returns to be filed with, and the information to be furnished to the Registrar.

(5) Where the Board fails to call a special general meeting within the period specified in sub-section (1) of section 67 the Registrar may at the cost of the co-operative society call the special general body meeting notwithstanding anything contained in this Act—

(a) to review the affairs of the co-operative society; and

(b) to ascertain whether the general body desires to continue the co-operative society.

(6) Where—

(a) a quorum of members is not present at the special general body meeting called under sub-section (4) or sub-section (5); or

(b) the general body meeting fails to pass a resolution to the effect that—

(i) the co-operative society is to carry on business;

(ii) the committee shall present, within sixty days from the date of special general body meeting to the general body the annual returns to be filed with, and the information to be furnished to, the Registrar; and

(iii) the co-operative society shall file the returns with, and furnish the information to, the Registrar within ninety days from the date of the special general body meeting.

The Registrar shall—

(i) if he is satisfied that the co-operative society has no assets or liabilities, dissolve the co-operative society, delete its name from the register of co-operative societies

and issue a certificate of dissolution of such co-operative society; or

(ii) appoint a liquidator under section 127 to wind up the affairs of the co-operative society.

126. *Winding up, etc. of co-operative banks at the direction of the Reserve Bank of India.*—Notwithstanding anything contained in this Act, in the case of an insured co-operative bank,—

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement, or of amalgamation, or reconstruction (including division or re-organization), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;

(ii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank from being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession (removal) of the Board of management of society and the appointment of an Administrator thereof for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the Administrator so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee of management of society.

(iii) An order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or re-organisation) or an order for the supersession (removal) of the committee of management of society and the appointment of an Administrator thereof made with the previous sanction in writing or on the requisition of the Reserve Bank

of India shall not be liable to be called in question in any manner and the liquidator or the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961), in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation.—

(a) the expression “an insured Co-operative bank” means a society which is an insured bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);

(b) the expression “the transferee bank” has the same meaning as assigned to it in that Act.

127. Appointment of liquidator.— (1) Where the Registrar has made an order under section 124 or 125 or 126 for the winding up of a co-operative society, the Registrar may appoint a liquidator for the purpose.

(2) The Registrar may fix the remuneration to the liquidator taking into account the volume of work of liquidation proceedings.

(3) Where a co-operative society is to be dissolved and no liquidator is appointed by the general body meeting, the Registrar shall appoint any person as a liquidator to wind up the affairs of the co-operative society.

128. Duties of liquidator.— A liquidator on his appointment shall—

(a) immediately give notice of his appointment—

(i) in the case of a liquidator not appointed by the Registrar, to the Registrar, and

(ii) to each claimant and creditors known to the liquidator;

(b) immediately publish notice of his appointment in the Official Gazette and in a newspaper in Konkani, Marathi and English and take reasonable steps to give notice of the liquidation in every jurisdiction where the co-operative society carries on business;

(c) include in the notice mentioned in clauses (a) and (b) a provision requiring any person—

(i) indebted to the co-operative society to render an account and pay to the liquidator at the time and place specified in the notice any amount owing;

(ii) possessing property of the co-operative society to deliver it to the liquidator at the time and place specified in the notice; and

(iii) having a claim against the co-operative society, whether liquidated, unliquidated, future or contingent, to present particular of the claim in writing to the liquidator at the time and place specified in the notice within the period specified in such notice which shall not exceed sixty days from the date of first publication of the notice;

(d) take into his custody and under his control all the property and actionable claims to which the co-operative society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of or damage to such property, effect and claims;

(e) open and maintain a trust account for the moneys of the co-operative society;

(f) keep accounts of the moneys of the co-operative society received and paid out by him;

(g) maintain separate lists of the members, creditors and other persons having claims against the co-operative society;

(h) where at any time he determines that the co-operative society is unable to pay or adequately provide for the discharge of its obligations, apply to the Registrar or general body, as the case may be, for directions; and

(i) deliver to the Registrar or general body, as the case may be, periodically as the Registrar or general body may require, financial statements of the co-operative society in such form the liquidator considers proper or that the Registrar or general body may require.

129. *Powers of Liquidator.*— (1) The whole of the assets of a co-operative society in respect of which an order for winding up has been made shall vest in the liquidator appointing under section 127 from the date the order takes effect.

(2) The liquidator may—

(a) retain lawyers, accountants, engineers, appraisers and other professional advisors;

(b) institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office;

(c) carry on the business of the co-operative society so far as may be necessary for the beneficial winding up of the same;

(d) sell by public or private sale any property of the co-operative society;

(e) do all acts and execute any documents in the name and on behalf of the co-operative society;

(f) borrow money on the security of the property of the co-operative society;

(g) settle or compromise any claims by or against the co-operative society; and

(h) do all other things that he considers necessary for the liquidation of the co-operative society and distribution of its property.

(3) Where a liquidator has reasons to believe that any person has in his possession or under his control, or has concealed withheld or misappropriated any property of the co-operative society, he may apply to the Metropolitan Magistrate for an order requiring that person to appear before the court at the time and place designated in the order and to be examined.

(4) Where the examination under sub-section (3) discloses that a person has concealed, withheld or misappropriated property of the co-operative society or has in possession or under his control the property of the co-operative society, the Metropolitan Magistrate may order that person to restore the property or pay compensation to the liquidator on behalf of the co-operative society.

(5) No liquidator shall purchase, directly or indirectly, any part of the stock-in-trade, debts or assets of the co-operative society.

(6) Where an order of winding up of co-operative society is set aside in appeal, the property, effects and actionable claims of the co-operative society shall revest in the co-operative society.

130. *Disposal of surplus assets of liquidated co-operative societies.*— After all the liabilities including the paid up share capital of a wound up co-operative society have been met, the surplus assets shall not be divided among its members but they shall be applied to any object described in the rules or bye-laws, the surplus shall be vest in the Registrar, who shall hold it in the trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society, to which the surplus belonged, was serving:

Provided that, where no such society exist or is registered within three years of the

cancellation of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus, in the manner he thinks best, amongst any or all the following:—

(a) an object of public utility and of local interest as may be recommended by the members general meeting held under the preceding section;

(b) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no federal society which may be notified in this behalf by the Government; and

(c) for the purpose of development of the co-operative movement.

Where the Registrar is satisfied that the assets of financially weak society is blocked in the litigation process and that the interest of the society is at stake due to non-performance of certain obligation then at his discretion Registrar may assist such society/societies by allotting the funds from the surplus funds at his disposal.

131. *Final accounts and termination of liquidation proceedings.*— (1) A liquidator shall pay the costs of liquidation out of the property of the co-operative society and shall pay or make adequate provisions for all claims against the co-operative society.

(2) Subject to the provisions of section 129 after paying or making adequate provisions for all claims against the co-operative society, the liquidator shall apply to the Registrar for approval of his final accounts and for permission to distribute in cash or in kind, the remaining property of the co-operative society in accordance with the rules.

(3) Where the Registrar approves the final accounts rendered by a liquidator under sub-section (2), he shall—

(i) issue directions with respect to the custody or disposal of the documents and records of the co-operative society; and

(ii) discharge the liquidator.

(4) Where the Registrar discharges a liquidator under sub-section (3) the Registrar shall dissolve the co-operative society, issue a certificate of dissolution and delete its name from the register of co-operative societies.

(5) The co-operative society ceases to exist on the date shown in the certificate of dissolution, which shall not be later than six maximum years after the appointment of the liquidator.

(6) An order passed under sub-section (4) shall be communicated by registered post to the president of the co-operative society and to the financing bank or federal co-operative society to which co-operative society if indebted, if any, of which the co-operative society was a member.

CHAPTER XII

Appeals, Review and Revisions

132. *Appeals.*— (1) An appeal against an order or decision under sections 5, 10, 12, 14, 15, 19, 20, 21, 24, 25, 31, 35, 78, 125 and 129 shall lie—

(a) If made or sanctioned or approved by the Registrar, or the Dy. Registrar or Asstt. Registrar on whom the powers of the Registrar are conferred, to the State Government.

(b) If made or sanctioned by any person other than the Registrar, or the Dy. Registrar or Asstt. Registrar on whom the powers of the Registrar are conferred to the Registrar.

(2) An appeal against the order or decision under sections 83, 93, 96 and any order passed by the Registrar for paying compensation to a society, and any other order for which an appeal to the Tribunal has been provided under this Act, shall lie to the Tribunal.

(3) An appeal under sub-sections (1) and (2) shall be filed within 60 days of the date of communication of the order or decision.

(4) Save as provided in this Act, no appeal shall lie against any order, decision or award passed in accordance with this Act; and every such order, decision or award shall be final, and where any appeal has been provided for any order passed on appeal shall be final and no further appeal shall lie against it.

133. *Extension of period of limitation by appellate authority in certain cases.*— In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he has sufficient cause for not referring the appeal within such period.

134. *Review.*— (1) The Government or the Tribunal or the Registrar on the application of any party may review their own order in any case, and pass in reference thereto such order as they think just:

Provided that no such application made by the party shall be entertained unless the Government or the Tribunal or the Registrar, as the case may be, is satisfied that there has been the discovery of new important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when order was made or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reasons:

Provided further that no such order shall be varied or revised unless notice has been given to the parties interested to appear and being heard in support of such order.

(2) An application for review under sub-section (1) by any party shall be made within thirty days from the date of communication of the order of the Government or the Tribunal or the Registrar.

135. *Revision.*— (1) Government may of its own motion or an application made to it, call

for and examine the record of the Registrar, in respect of any proceeding not being a proceeding in respect of which an appeal to the Tribunal is provided by section 137 to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision passed or order made therein and if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly:

Provided that every application to the Government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) Government may suspend the decision or order pending the exercise of its power under sub-section (1) in respect thereof.

(4) Government may award costs in proceeding under this section to be paid either out of the funds of the co-operative society or by such party to the application for the revision as the Government may deem fit which may be recovered as arrears of land revenue.

136. *Interlocutory orders.*— Where an appeal is made under section 132 or where the Tribunal or the Government calls for the record of a case under section 134, the appellate authority or the Tribunal or the Government, as the cases may be, may in order to prevent the ends of justice being defeated, make such interlocutory order, including an order of stay, pending the decision of the appeal or revision as such authority or the Tribunal or the Government may deem fit.

137. *Goa Co-operative Tribunal.*— (1) The Government shall constitute a Tribunal called the Goa Co-operative Tribunal to exercise the powers and to discharge the functions conferred on it by or under this Act.

(2) The Goa Co-operative Tribunal shall consist of a President and an Additional President both of whom shall be appointed by the Government. Both, the President and the Additional President, shall have co-extensive powers and concurrent jurisdiction to deal with the cases filed in the Co-operative Tribunal. The Additional President shall decide such cases as are made over to him by the President.

(3) (a) The President and an Additional President of the Co-operative Tribunal shall be a person who is qualified to be appointed as a District Judge or is or has been a Judicial Officer for a period of 7 years or has held or holding the post of the President and an Additional President of Administrative Tribunal.

(b) The appeal and revision in respect of matters of Co-operative Societies shall be decided by the Goa, Daman and Diu Administrative Tribunal till such time up to establishment of independent Co-operative Tribunal.

(4) The Co-operative Tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4), shall be published in the Official Gazette. The regulations governing the procedure of the Goa, Daman and Diu Co-operative Tribunal constituted under section 149 of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961), as applied to the State of Goa, shall continue to be in force till such publication.

(6) The Co-operative Tribunal may call for and examine the records of any proceeding

in which an appeal lies to it, for the purposes of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the Co-operative Tribunal that any such decision or order should be modified, annulled or reversed, the Co-operative Tribunal may pass such order thereon as it may deem just.

(7) Where an appeal or application is made to the Co-operative Tribunal under this Act, it may, in order to prevent the ends of justice being defeated, make such inter-locutory orders pending the decision of the appeal or application, as the case may be, as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(8) An order passed in appeal or in revision under sub-section (6), or in review under section 134 by the Co-operative Tribunal, shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

(9) (a) The President of the Goa, Daman and Diu Co-operative Tribunal functioning immediately before the commencement of this Act, shall be deemed to be the President of the Goa Co-operative Tribunal constituted for the purpose of this Act; and all appeals and other proceedings pending before the said Goa, Daman and Diu Co-operative Tribunal shall be heard and disposed of by the Co-operative Tribunal constituted under this Act from the stage they reached before such commencement.

(b) Anything done or any action taken including any orders passed or regulations made by the said Goa, Daman and Diu Co-operative Tribunal, shall be deemed to have been done or taken by the Co-operative Tribunal constituted under this Act and shall continue in operation until duly modified or annulled.

(c) Any reference to the said Goa, Daman and Diu Co-operative Tribunal in any law or

instrument, for the time being in force, shall, with effect from the commencement of this Act, be construed as a reference to the Co-operative Tribunal constituted under this Act.

Explanation.— The Co-operative Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an Appellate Court by section 97 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908 (V of 1908).

138. *Co-operative Tribunal to have powers of Civil Court.*— (1) In exercising the functions conferred on it by or under this Act, the Co-operative Tribunal shall have the same powers as are vested in a Court in respect of,—

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person and examining him on oath;
- (c) compelling discovery or the production of documents; and
- (d) issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the Co-operative Tribunal in this behalf may administer the oath to the deponent.

CHAPTER XIII

Offences and Penalties

139. *Offences.*— The following shall constitute as offences under this Act— (1) Any co-operative society or an officer or member thereof, willfully making a false return or furnishing false information or any person willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act, or willfully not furnishing any information required from it

or him or by a person authorized in this behalf under the provisions of this Act.

(2) Any employer who, without sufficient cause, fails to pay to a co-operative society the amount deducted by him under section 49 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any other law for the time being in force.

(3) Any officer or custodian who willfully fails to handover the custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to a person authorised to have a custody under this Act.

(4) Any person who acts in contravention under the section of this Act.

(5) The Board of Directors or any officer or employees of a co-operative society who falsify or tamper with the records of the co-operative society.

(6) Any officer or employees of a co-operative society including the paid secretary or Board of Directors who dishonestly or fraudulently misappropriates, misuse, or otherwise converts for his own use or intentionally causes loss to the property of the co-operative society entrusted to him or under his control as such officer or employee, or allows another person to do or so to do.

(7) If the Board of Directors or the authorised officer of a co-operative society fails to file return as required under this Act.

(8) Functioning, trading or carrying on business under any name or title of which the word 'Co-operative' or its equivalent in any language forms part, except in the case of a society registered or deemed to be registered under this Act or any other State or Central Act or the family name of a person.

140. *Penalties.*— (1) A person who commits any of the offences specified in section 139 of the Act shall be liable for a fine not exceeding Rs.100/- per day for each of the offences committed, so long as the offence continues, without prejudice to the civil or criminal liability that may arise on such person under any other laws for the time being in force.

(2) On conviction a member of a co-operative society shall be debarred from contesting election of a Board of Directors for a period of six years.

141. *Authority to take cognizance.*— (1) No court inferior to that of a Judicial Magistrate First Class shall try any offences under this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act 2 of 1974), it shall be lawful for a Judicial Magistrate of the First Class to pass sentence of fine or imprisonment on any person convicted of an offence under clauses (e) and (f) of section 139 of this Act, in excess of this powers under section 29 of that Code.

(3) No prosecution under this Act shall be lodged except with the previous sanction of the Registrar. Such sanction shall not be given except after hearing the parties concerned by an officer authorised in this behalf, by the Government by a general or special order.

142. *Contempt of Registrar or designated officer and of Co-operative Tribunal.*— (1) If any person—

(a) when ordered by the registrar or designated officer or tribunal to produce or deliver up any document or to furnish information, being legally bound so to do, intentionally omits to do so; or

(b) when required a Registrar or designated officer or Tribunal to bind himself by an oath or affirmation to State the truth, refuses to do so;

(c) being legally bound to state the truth on any subject to a co-operative authority or Tribunal, refuses to answer any question demanded of him touching such subject by the Registrar or designated officer or Tribunal; or

(d) intentionally offers any insult or causes any interruption to a Registrar or designated officer or Tribunal at any stage of its judicial proceeding, he shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person refuses to sign any statement made by him in the judicial proceedings, when required to do so by a Registrar or designated officer or the Co-operative Tribunal, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(3) If any offence under sub-section (1) or (2) is committed in the view or presence of a Registrar or designated officer or Tribunal concerned, the said authority or tribunal may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1973 (II of 1974), forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of the accused person before such Magistrate or, if sufficient security is not given, shall forward such person in custody to such Magistrate. The Magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the Code of Criminal Procedure, 1973 (II of 1974).

(4) If any person commits any act or publishes any writing which is calculated to improperly influence a Registrar or designated officer or the co-operative tribunal

to bring any such authority or Tribunal into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of the said authorities, such person shall be deemed to be guilty of contempt of the said authorities.

(5) In the case of contempt of itself, the co-operative tribunal shall record the facts constituting such contempt, and make a report in that behalf to the High Court.

(6) In the case of contempt of Registrar or his nominee they shall record the facts constituting such contempt, and make a report in that behalf to the co-operative tribunal, and thereupon, the Tribunal may, if it considers it expedient to do so, forward the report to the High Court.

(7) When any intimation or report in respect of any contempt is received by the High Court under sub-section (5) or

(8) The High Court shall deal with such contempt as if it were contempt of itself, and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.

143. *Presumption as to statements.*— Where any member, officer or employee of a co-operative society has made a statement during the audit under section 89, or inspection or inquiry under section 92, or inspection of debtor institution under section 92, or proceedings under section 96 and the statement is recorded by the Registrar or the person authorized by the Registrar in exercise of their powers conferred on them under this Act, the court shall presume that the statement was so recorded by the Registrar or the person authorized by him as a statement within the meaning of the Indian Evidence Act, 1872 (1 of 1872).

144. *Notice necessary in suits.*— No suit shall be instituted against a co-operative

society or any of its officer in respect of any act touching the business of the co-operative society until the expiration of ninety days next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

145. *Indemnity.*— No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have been done under this Act.

146. *Bar of jurisdiction of Civil or Revenue Courts.*— (1) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of—

(a) the registration of a co-operative society or its bye-laws or of an amendment of a bye-law;

(b) the removal of the committee;

(c) any dispute required under section 98 to be referred to the Registrar; and

(d) any matter concerning the winding up and the dissolution of a co-operative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such co-operative society shall be proceeded with or instituted against the liquidator as such or against the co-operative society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award made under this Act, shall be questioned in any Court on any ground whatsoever.

CHAPTER XIV

Miscellaneous

147. *Power to delegate.*— (1) The Government may, by notification in the Official Gazette, direct that any power exercised by it under this Act, except the power to make Rules, may also be exercised by such officer as may be mentioned therein in such cases and subject to such conditions, if any, as may be specified therein.

(2) The State Government may, by notification in the Official Gazette and subject to such conditions as it may think fit to impose appoint a retired officer not below the rank of Asstt. Registrar of Co-op. Societies who served in the Department at least five years retired not more than two years prior to the date of appointment, as the Officer of any Co-operative Society by whatever designation as suggested by the Society concerned and delegate the powers of Registrar under section 147 (2) of this Act to the said Officer, who shall work under the general guidance, supervision and control of the Registrar as specified in the notification.

148. *Recovery of sums due to the Government.*— (1) Unless otherwise provided by this Act, all sums due from a society or from an office bearer or member or past member or a deceased member of a society as such to the Government, may be recovered according to the law and under the Rules for the time being in force for the recovery of arrears of land revenue.

(2) Sums due from a society to the Government and recoverable under the foregoing sub-section may be recovered, firstly from the property of the society and secondly from the members or past members or the estate of deceased members subject to the limit of their liability.

(3) The liability of past members or estate of deceased members shall in all cases be subject to the provisions of section 37.

149. *Power to exempt societies from provisions of Act.*— The State Government may, by general or special order, to be published in the Official Gazette, exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order:

Provided that no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

150. *Branches, etc. of societies outside the State.*— (1) No society shall open a branch or a place of business outside the State of Goa, and no co-operative society registered under any law in any other State shall open a branch or a place of business in the State of Goa, without the permission of the Registrar.

(2) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the State of Goa under the foregoing sub-section, which has a branch or a place of business in the State of Goa at the commencement of this Act, shall, within three months from the opening of such branch or place of business or from the commencement of Act, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these are not written in English language, a certified translation thereof in English or Hindi, and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State where such society is registered.

151. *Registrar and other officers to be public servants.*— The Registrar, a person exercising the powers of the Registrar, a person appointed to audit the accounts of the society or to hold an inquiry or to make an

inspection, or a person appointed as Registrar's Nominee, the Co-operative Tribunal or a Liquidator shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860)

152. *Rules.*— (1) The Government may, for the whole or any part of the State and for any society or class of societies, make Rules for the conduct and regulation of the business of such society or class of societies, and for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such Rules may,—

(i) subject to the provisions of section 4, prescribe the designation of officers who shall exercise powers vested in the Registrar;

(ii) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 7 and the procedure in the matter of such application;

(iii) prescribe the classes and sub-classes of societies and the criteria thereof;

(iv) prescribe the matters in respect of which a society may make, or the Registrar may direct a society to make bye-laws and the conditions to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(v) prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion or re-construction of society;

(vi) prescribe the form and procedure for an application under section 21 and the procedure for re-construction of a society under that section;

(vii) prescribe the manner for entering into collaboration by any society or societies with any Government undertaking or any undertaking approved by the Government for carrying on any business;

(viii) prescribe the manner of giving public notice of the proceedings of deregistration of societies;

(ix) prescribe the conditions subject to which the Official Assignee shall realise the assets and liquidate the liabilities, under sub-section (3) of section 25;

(x) prescribe the manner of giving public notice and the remuneration and allowances to be paid to the Official Assignee, under sections 25 (1) and 25 (4) respectively;

(xi) prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the payment to be made and the interests to be acquired before the exercise of the rights of membership;

(xii) prescribe, in the case of federal society, the manner of exercising voting rights by individual members;

(xiii) prescribe the procedure for the admission of joint members and minors and persons of unsound mind inheriting the share or interest of deceased members and provide for their rights and liabilities;

(xiv) provide for the withdrawal, removal or expulsion of members and for the payments to them and for the liabilities of past members and the estate of deceased members;

(xv) prescribe the conditions and procedure for the transfer of share or interest;

(xvi) provide for nomination of a person to whom the share or the interest of a

deceased member may be paid or transferred;

(xvii) provide for ascertaining the value of a share or interest of a past member or deceased member;

(xviii) provide for inspection of bye-laws and documents in the Registrar's office and the levy of fee for inspection and granting certified copies of the same;

(xix) provide for procedure for registering the address of a society and the change of its address;

(xx) prescribe the particulars to be entered in the register of members besides the particulars mentioned in section 45;

(xxi) prescribe the fees to be levied by the Registrar for inspection of bye-laws and list of members of the Board of Directors of the societies registered under the Act;

(xxii) prescribe the manner of certifying the entries in the book, register or list kept by a society in the course of its business;

(xxiii) provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;

(xxiv) prescribe the period for and terms upon which Government aid may be given to societies and terms under which the Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by societies;

(xxv) prescribe the manner in which funds may be raised by a society or class of societies by means of shares or debentures or otherwise and the quantum of funds so raised;

(xxvi) prescribe the forms in which a society shall send requisition to employer under section 49;

(xxvii) the formation and maintenance of reserve fund and other funds, and the objects to which such funds may be applied and allocation and distribution of the net profit arrived thereafter;

(xxviii) the amount and percentage of net profit to be contributed by a co-operative society for Co-operative Education Fund and its utilization;

(xxix) prescribe the modes of investment of funds under section 57;

(xxx) prescribe other measures or acts besides those mentioned in section 74;

(xxxi) the limit up to which a co-operative society can receive deposits and loans, condition for it;

(xxxii) prohibitions and restrictions subject to which co-operative societies may transact business with the persons who are not members;

(xxxiii) the proportion of individual and co-operative society in the constitution of the committee and the general body of co-operative society of which other co-operative society is a member and the power exercisable by such committee or general body;

(xxxiv) provide for general meetings of the members, for the procedure at such meetings and the powers to be exercised by such meetings;

(xxxv) the procedure for holding a special general body meeting and recovery of expenses from delinquent officers of the committee;

(xxxvi) prescribe the conditions in which a member of a society may be disqualified from voting;

(xxxvii) prescribe the fees for filing the returns with the Registrar;

(xxxviii) prescribe the forms and procedure for elections to the Board of Directors of societies to be conducted by the Registrar;

(xxxix) prescribe the forms and procedure for election of representative general body of societies mentioned in section 70;

(xl) the procedure for holding of the elections and the steps to be initiated for such election before the expiry of the term, appointment of an administrator on failure to conduct elections and to conduct elections and to conduct election within ninety days, recovery of expenses from the delinquent officers of the committee in cases of default;

(xli) the procedure for making a motion expressing lack of confidence in the committee or any of its officer in the special general body meeting convened for the purpose and setting up an ad hoc committee to conduct fresh elections within in the period of ninety days;

(xlii) the modalities to be complied with before supersession of the committee of a co-operative society and constitution of the new committee by the administrator before the expiry of his term;

(xliii) procedure for authorisation to Sub-divisional Magistrate for securing possession of records of a co-operative society;

(xliv) prescribe the returns to be submitted by a society to a Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

(xlv) prescribe the period for which the books of accounts and supporting records and vouchers shall be preserved by the societies;

(xlvi) prescribe the form for the rectification of defects discovered in the course of audit;

(xlvii) prescribe the procedure for conducting an audit, the matters on which the auditor shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of a society, the forms of audit memorandum and report and the charges, if any, to be paid by a society for audit;

(xlviii) prescribe the procedure for appointment of auditors under section 89;

(xlix) the manner in which inspection, inquiry and inspection of books of indebted co-operative society is to be conducted, the security money to be deposited by a creditor for such inspection and the follow up action to be take on the findings including the rectification thereof;

(l) provide for the procedure to be adopted for taking possession of books, documents, securities, cash and other property of a society by a person acting under section 89 and 92 in cases where misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tempered with or destroyed or removed;

(li) provide for appointment of the Registrar's nominee or Board of Nominees, procedure to be followed in proceedings before the Registrar or his nominee or Board of Nominees and for fixing and levying the expenses for determining the dispute and for enforcing the decisions or awards in such proceedings;

(lii) prescribe the form in which a dispute shall be referred to the Registrar;

(liii) provide for the issue and service of processes and for providing of service thereof;

(liv) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar;

(lv) prescribe the procedure for and the method of recovery of any sums due under this Act or the Rules;

(lvi) prescribe the procedure to be followed for the custody of property attached under section 103;

(lvii) prescribe the procedure to be followed in the execution of awards;

(lviii) prescribe the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by a society under section 110;

(lix) prescribe the procedure for attachment and sale of property for the realisation of any security given by a person in the course of execution proceedings;

(lx) prescribe the procedure and conditions for the exercise of the powers conferred under section 129 and the procedure to be followed by a liquidator and provide for the disposal of surplus assets;

(lxi) prescribe the matters in which an appeal shall lie from the orders of liquidators appointed under section 127;

(lxii) prescribe the procedure to be followed in presenting and disposing of appeals;

(lxiii) prescribe the qualifications of the members of the Tribunal;

(lxiv) prescribe in the case of appeals lying to the State Government the authority

to which power of hearing appeals may be delegated;

(lxv) prescribe the method of communicating or publishing order, decision or award required to be communicated or published under this Act or the Rules;

(lxvi) provide that the contravention of any of the rule shall be an offence under the Act;

(lxvii) provide for all others matters expressly required or allowed by this Act to be prescribed by Rules.

(3) The power to make rules conferred by this section is subject to the condition of the Rules being made after previous publications.

(4) All rules made under this section shall be laid for not less than thirty days before each house of the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

153. *Service rules for employees of co-operative societies.*— The Government shall as soon as may be after the commencement of this Act, direct all co-operative societies or class of co-operative societies to frame service rules for their employees and get them approved from the management.

154. *Repeal and savings.*— On the day on which the Goa Co-operative Societies Act, comes into force, the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001) in force in the State of Goa shall stand repealed:

Provided that the repeal shall not affect—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if that Act had not been repealed.

155. *Companies Act not to apply.*— For the removal of doubt, it is hereby declared that the provisions of the Companies Act, 1956 (1 of 1956), shall not apply to societies registered, or deemed to be registered, under this Act.

156. *Act to override other laws.*— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

157. *Removal of difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, do anything not inconsistent with such provisions of this Act for the purpose of removing the difficulties:

Provided that no such order shall be made, under this section after the expiry of two years from the commencement of this Act.

(2) Every order under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa for ratification.

ANNEXURE - II

Bulletin Part – I (No. 10) Dated 22 July, 2009
Para 4

MOTION FOR EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE ON THE GOA CO-OPERATIVE SOCIETIES ACT, 2001

MOTIONS FOR EXTENSION OF TIME FOR PRESENTATION OF SELECT COMMITTEE REPORTS ON BILLS

(1) Shri Ravi Naik, Minister for Home moved the following:

(i) "This House do extend the time for presentation of the Report of the Select Committee on the Goa Police Bill, 2008 to the duration of House".

(ii) "This House do extend the time for the presentation of the Report of the Select Committee on the Goa Co-operative Societies Act, 2001 to the duration of the House".

ANNEXURE - III

Suggestions from Public

Suggestions from Sahakar Manch of Goa and Thrift Co-operative Association Ltd. Goa

Section of Act No.	Text of the Bye-law
14	Amendment of Bye-laws of Society.
14- (3)	The wording in the last two lines "provided that the Society shall comply with all requirements necessary for amendment of Bye-laws" ----- be reviewed.
47	Exemption for certain taxes, fees and duties In section 47 sub-section (1) & (2) the word "remit" be substituted by word "exempt".
55/56	Section 55 and 56 be rearranged in order as under. 55) – Contribution to Co-operative Education Fund. 56) – Contribution to charitable purpose.

- 58 Section 58- Reserve and other funds be inserted before 57 investment of funds, hence serial number be rearranged.
- 69(3) The size of Board of Directors shall be in accordance with Bye-laws subject to a maximum of 15 "Elected Directors" "Excluding" the Chief Executive who shall be an Ex Officio Director of Board and not more than 1/5th of total number of Director shall be nominated Directors on Board.
- 73(1) Add the Following
(d) – Has not attended three annual general body meetings of the Society preceding the election of Board.
- 74 (a) – The wording "or within extended period of three months by Register" be added after word "nine months".
- 77(2) The word "one third" be substituted by "majority".
- 86 After word "bye-laws" added wording "or service rules framed for the purpose".
- 102-(3) Sub-section "e" be added as "In any case, (e) the dispute relating to loans by Co-operative Societies filed before the Registrar shall be disposed off within period of 90 days from date of filing dispute.
- 110 Sub-section "e" be added as the execution proceedings of loan recovery shall be finally decided by the Registrar within a period of ninety days.
- 142(2) After wording "any statement made by him" the wording "in a Judicial proceeding" be added.
- 142 Sub-section (4) & (6) shall be deleted.
- 148 "as" Arrears of Land revenue.
- 4 Recovery Officers- Powers delegated to Manager, Chief Executive or Officer in-charge authorized by Board.
- 15 Right to information (1) (2)
Section 157 shall be deleted as it would amount to discharge of secrecy of the Society required under Banking Business right is already granted in section 38.
- The section 38 – "Right of members to see books etc. included in the Act will provide right to member to seek information, inspection of books etc., and relative information relating to his own transaction entered in Books and minutes of General Body and Board Meeting. The Society may also furnish copy of the same.
-
- Suggestion from Deendayal Nagari Sahakari Pathsaunstha Maryadit**
- 49(6) *Deduction from salary to meet Co-operative Society's claim in certain cases.*
- This section shall be applied for also sureties of the loanee member provided that all efforts should be made to recover the dues from loanee member before going to the attachment of salary of the surety of the loanee member as the maximum loaning is done at the urban society are based on the salary and this section will harm the recovery of the society.
- 56 *Contribution to Co-operative Education Fund.*
- Amount of contribution to the said education fund should be brought down to Rs. 50000.00 as financial position of all the co-operative societies are not so well to contribute the sum extent to rupees one lakh so it may be reduced.
- 157(1) *Right to information*
- Any member or creditor having interest in the affairs of the co-operative society may seek information relating to any transaction (not the personal transaction of any other member) of the co-operative society and for that purpose may be provided a certified copy of above said document within thirty days from the date of receipt of application relating to such transaction on payment of such fee as may be specified to maintain secrecy of the members transaction.
- 89 *Audit*
- (a) There should be provision for the societies to do their internal audit through any competent person who is holding Degree in commerce and Diploma in co-operation or

having ten years experience in co-operative field or accounting. It will help the small societies cost wise rather than to spent huge amount of audit fees on Chartered Accountants and also there by generate the employment in the Co-operative sector.

102 *Procedure for settlement of disputes a power of Registrar, his nominee or Board of Nominees.*

There should be time limit for the settlement of disputes which will strengthen the recovery process.

Suggestions from Bicholim Urban Co-operative Bank Ltd., and other four Banks

1. *Definition No. 32 "Member".*— It may be stated as follows

Member means a person or legal entity.
This is to make the definition more specific.

2. *Section 34.*— Manner of exercising vote by proxy

It appears voting by proxy is restricted only to Co-operative Societies. Normally provision for voting by proxy to local authority, a firm, a company is available in the Co-operative Sector. Therefore the same should be provided for.

3. *Section 36:* Transmission of interest on death of a member

Sub-section (2) ----- "Any such nominee, heir or legal representative as the case may be may require the society to pay to him the value of the share-----". In the above provision it may be stated as face value of the share.

Normally, shares of Co-operative Banks or Societies are not listed on the Stock Exchange or traded in the primary or secondary market. Besides, dividend is being distributed annually by profit making societies. As such while refunding shares the computation is made based on face value only.

4. *Section 49.*— It appears this section does not apply to sureties for the purpose of deduction of loan installments at source. This section provided that recovery could be effected from the sureties only after passing of award or order by the Competent Authority. This will seriously hamper

recovery of loans in the Co-operative Societies. If implemented the very purpose of effecting recovery and also pressurizing the borrower shall be defeated. Besides, getting award or order may involve inordinate delay thereby putting the recovery process in jeopardy. Deduction of loan installments from the salary of surety results into a moral and legal obligation for the borrower to be prompt in repayment of regular monthly installments. We therefore earnestly request you to make this section applicable to sureties too as available in the Maharashtra State Co-operative Societies Act.

5. *Section 57 and 59.*— The word "Reserve Bank" may be written as Reserve Bank of India.

6. *Section 64.*— Writing of Bad Debts

It is observed that approval of Registrar is made necessary in this section. However, the Goa Co-operative Societies Act, 2001, rule 40 does not mention about the approval of Registrar. We sincerely feel that approval by the Registrar may be waived and may be insisted upon only in case of State Aided Society.

7. *Section 100 (1-a).*— Limitation—

This section indicates the date from which limitation period is to be calculated but the overall period within which action should be initiated is not stated as provided in sub-section 1(b), (c), (d). We feel that to avoid any confusion, the specific period as per provision of Indian Limitation Act, 1963 may be stated.

8. *Section 104.*— Decision of Registrar or nominee in case of disputes

It is observed that no specific period is stipulated for deciding the dispute or number of adjournments that could be allowed. We sincerely feel that to accelerate recovery process and to bring in an element of seriousness in the matter, specific period may be prescribed.

9. *Section 105.*— Appeal against decision of Registrar

It is observed that this provision is being misused by the willful defaulters; they prefer an appeal in the Tribunal mostly for the purpose of prolonging the matter. In order to deter such parties from resorting to refer an appeal, we recommend that it may be made mandatory for the defaulters to

deposit certain percentage of awarded amount at the time or preferring an appeal in the tribunal (such kind of provision is available in "Securitisation Act" promulgated by Government of India).

10. *Section 108.*— Transfer of property

Please see 6th line of section 108(i) under clause (a) or (b) of section 110, which should be 106 instead of 110.

It is observed that this section does not mention as to how many times auction should be conducted before it is transferred in the name of the Society. We request that the same may be stated categorically.

11. *Section 157.*— Right to information

In this regard we humbly submit as follows

(a) Right to Information Act, 2005 is applicable only to the entities established by the State Government or Central Government or entities substantially financed directly or indirectly by the appropriate Government therefore this Section shall be applicable only to State Aided Societies.

(b) We note that section 38 of the draft Act already provides for a member to seek necessary and relevant information.

(c) In case of Co-operative Banks and Credit Societies, it is extremely important and necessary to observe principles of fidelity and secrecy.

(d) Hon'ble High Court of Bombay has already decided in the case of Punjabrao Deshmukh Urban Co-operative Bank about non applicability of Right to Information Act to Co-operative Banks.

In view of the above we sincerely feel that this section shall be suitably amended and made applicable to the State Aided Entities.

Other Suggestions

1. Some deliberations on "Camp Court Concept" may be made and provided for.

2. We sincerely feel that fee structure pertaining to Arbitration/Execution cases may be prescribed.

3. There is no mention that a member cannot obtain loan from two societies as provided in section

43 of Maharashtra Co-operative Societies Act. This may give an advantage to Employee Credit Societies who provide loans to their staff and stop deduction of the Bank.

4. Rules as required and in accordance with the provisions of the proposed Act may be framed.

We request you to look into the matter and do the needful.

Suggestions from Lt. Col. S. P. Ohrie (Retd.)

1. a. In the light of above discussion it is submitted that the use of Proxy voting in Co-operative Societies by NRI members, who cannot attend the meetings, has become an imperative necessity in the context of present day life style. It is therefore prayed that section 69 of the Act be deleted and section 28 suitably amended to permit use of Proxy voting. It is further put up for consideration that in case authorities are inclined to agree to the above suggestion then the proposed remedial measures be published in bimonthly NRI News letter so as to convey to the NRIs the eager and earnestness of the Chief Minister's promise to them at the Gomant Vishwa Sammilan.

2. Removal of a member and cessation of membership section 25(3) and section 24

(a) Section 25 (3) of the Act lays down that a member who has not attended three consecutive AGMS of the Society may be removed from the society by the general body by a resolution after giving an opportunity to the member of representing his case to the general body. Section 24 of the Act stipulates that a removed member thereafter ceases to be a member of the Society.

(b) If the intention of these Sections is to compel more attendance at the Society's AGMs then it is conjectured it may not be achieved, especially in the case of NRI members. The latter's visit to homeland are few and far between and also of short duration for hardships explained in Para 11 their visits with the date of meeting of the Society, which are varying every year and held at short notice, will make their problems more complicated and well high impossible to undertake.

(c) It is to be noted that the Act and Rules thereto is silent regards the disposal of the properties of 'removed' members from the various types of housing societies. This is indeed a very important

question which will continue to be a source of extreme worry to members.

(d) The more important aim is to encourage members take active and keen interest in the affairs of the society, which task can conveniently be achieved by permitting them nominate their proxy representative in lieu of personal physical attendance. They can brief their proxy of their views on matters being brought up before the meeting which will be conveyed at the meeting through Proxy members hence will be taken into account before the issue is resolved.

3. a. In view of the above it is all the more imperative that Proxy voting be introduced in Co-operative Housing Societies and such section 25(3) be deleted.

ANNEXURE - IV

MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE GOA CO-OPERATIVE SOCIETIES ACT, 2009 HELD ON MONDAY, 14TH SEPTEMBER, 2009

1. The Committee met at 10.30 a.m. on Monday, 14th September, 2009 in the Public Accounts Committee Room, Assembly Complex, Porvorim, Goa.

2. The following were present:

CHAIRMAN

Shri Ravi Naik Hon'ble Minister for Co-operation

MEMBERS

Shri Nilkanth Halarnkar
Shri Aleixo Reginaldo Lourenco

LEGISLATURE SECRETARIAT

Shri J. N. Braganza	Secretary
Shri N. B. Subhedar	Under Secretary
Shri H. F. Noronha	Section officer

GOVERNMENT SECRETARIAT

Shri P. K. Patidar	Registrar Co-op. Societies
Shri C. D. Gawade	Dy. Registrar (Co-op.)

3. The Committee studied and scrutinized the Draft Model of Co-operative Societies Act, 2009.

4. The Committee took up the list of new sections for inclusion in the Model Act, 2009 that was presented by the Registrar of Co-operative Societies.

5. The new sections taken up were:

(a) section 25A Liability of Co-operative bank to the Depositor Insurance and Credit Guarantee Corporation.

(b) section 34 Proviso to be added for proxy voting by NRI.

(c) section 68(8) fixing of liability for Members of the Committee.

(d) section 131 (5) dissolution of Co-operative Society.

6. The Committee accepted the following suggestions received from the Public and directed that new draft of the respective sections incorporating the suggestion be submitted to the Committee by Department after getting them duly vetted by Law Department.

- (1) Amendment to section 56 - Contribution to Co-operative Education Fund.
- (2) Amendment to section 104 - Procedure for settlement of dispute on power of Registrar, his nominee or Board of Nominees on fixing of time limit for settlement of disputes (one year be prescribe).
- (3) Rearrangement of section 55 - Contribution of Co-operative Education Fund and 56-Contribution to Charitable purposes.
- (4) section 58 - Reserve and other funds be inserted before section 57.
- (5) section 69(3) - Total number of directors can be 15 excluding the CEO.
- (6) section 142(2) - After wording "any statement made by him" the wording "in the judicial proceeding" be added.
- (7) section 157- inserting word "his" in place of "any".
- (8) section 57 and 59 - the word "Reserve Bank" may be written as "Reserve Bank of India".
- (9) section 108 - stating categorally the numbers of times an auction should be

conducted before it is transferred in the name of the society.

- (10) section 25(3) - to allow proxy voting in Co-operative Housing Societies only for services personnel's and Non Resident Indians.

7. The Committee directed the Department to examine legally, whether a defaulter going in appeal against a decision of the Registrar should be liable to deposit 50% of the award amount before appeal can be considered.

8. The Committee decided to fix the next meeting on 16th October, 2009 at 10.30 a. m.

The Committee then adjourned at 12.05 p. m.

ANNEXURE - V

MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE GOA CO-OPERATIVE SOCIETIES ACT, 2009 HELD ON FRIDAY, 16TH OCTOBER, 2009

1. The Committee met at 10.30 a.m. on Friday, 16th October, 2009 in the Public Accounts Committee Room, Assembly Complex, Porvorim, Goa.

2. The following were present:

CHAIRMAN

Shri Ravi Naik Hon'ble Minister for Co-operation

MEMBERS

Shri Nilkanth Halarnkar
Shri Deepak Dhavalikar
Shri Francis D'Souza

LEGISLATURE SECRETARIAT

Shri J. N. Braganza Secretary
Shri H. F. Noronha Section officer

GOVERNMENT SECRETARIAT

Shri V. P. Shetye Secretary Law
Shri P. K. Patidar Registrar Co-op. Societies
Shri C. D. Gawade Dy. Registrar (Co-op.)

3. At the outset the Committee objected to inclusion of section 49(6).

4. The Committee directed to the Secretary (Law) to examine section 49 (6) in view of Supreme Court Judgment (copy handed over) and to report to the Committee.

The Committee then adjourned at 11.30 a.m.

ANNEXURE- VI

MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE GOA CO-OPERATIVE SOCIETIES ACT, 2009 HELD ON THURSDAY, 13TH MAY, 2010

1. The Committee met at 10.30 a.m. on Thursday, 13th May, 2010 in the Public Accounts Committee Room, Assembly Complex, Porvorim, Goa.

2. The following were present:

CHAIRMAN

Shri Ravi Naik Hon'ble Minister for Co-operation

MEMBERS

Shri Aleixo Reginaldo Lourenco
Shri Pandurang Madkaikar

LEGISLATURE SECRETARIAT

Shri J. N. Braganza Secretary
Shri N. B. Subhedar Joint Secretary
Shri H. F. Noronha Section officer

GOVERNMENT SECRETARIAT

Shri V. K. Jha Secretary, Law (link officer)
Shri D. C. Shaoo Secretary, Co-operation
Shri P. K. Patidar Registrar Co-op. Societies
Shri S. G. Marathe Joint Secretary, Law

3. At the outset the draft copies of the said Act given by Registrar of the Co-operative Societies were circulated to the Committee. The Committee while scrutinizing the Act decided that section 157 be inserted in Chapter III, after section 32.

4. The Committee further directed that sections 137 and 57 be also suitably amended.

5. It is also decided to drop clause 6 of section 49.

6. The Committee directed the Registrar to incorporate all subsequent amendments and other suggestions and to submit a fresh draft to the Committee.

7. All new sections are to be highlighted for ready reference and be vetted by Law Department accordingly.

8. The next meeting has been fixed on 9th June, 2010 at 3.30 p.m.

The Committee then adjourned at 12.30 p.m.

ANNEXURE - VII

MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE GOA CO-OPERATIVE SOCIETIES ACT, 2009 HELD ON WEDNESDAY, 9TH JUNE, 2010

1. The Committee met at 3.30 p. m. on Wednesday, 9th June, 2010 in the Public Accounts Committee Room, Assembly Complex, Porvorim, Goa.

2. The following were present:

CHAIRMAN

Shri Ravi Naik Hon'ble Minister for Co-operation

MEMBERS

Shri Francis D'Souza

Shri Laxmikant Parsekar

LEGISLATURE SECRETARIAT

Shri J. N. Braganza	Secretary
Shri N. B. Subhedar	Joint Secretary
Shri H. F. Noronha	Section officer

GOVERNMENT SECRETARIAT

Shri V. K. Jha	Secretary, Law (link officer)
Shri D. C. Shaoo	Secretary, Co-operation
Shri P. K. Patidar	Registrar Co-op. Societies
Shri S. G. Marathe	Joint Secretary, Law

3. The Committee scrutinized the draft model and adopted the report thereunder.

4. The Committee agreed that the same be placed before the House on the first day of ensuing session.

The Committee then adjourned at 4.10 p.m.

Department of Inland Waterways

Captain of Ports

Notification

CP/H.S.O/138/2010

Read: (1) Government Notification No. I & L/V/118/67/2891 dated 29-11-1967, published in the Official Gazette, Series I No. 36 dated 7-12-1967.

(2) Government Notification No. I-11017/OSB/2004/COP/IWT/615 dated 17-02-2006, published in the Official Gazette, Series I No. 48 dated 02-03-2006.

In exercise of the powers conferred by section 5 of the Indian Port Act, 1908 (Central Act 15 of 1908) and in partial modification of the Government Notification No. I & L/V/118/67/2891 dated 29-11-1967 published in the Official Gazette, Series I No. 36 dated 07-12-1967 and Government Notification No. I-11017/OSB/2004/COP/IWT/615 dated 17-02-2006, published in the Official Gazette, Series I No. 48 dated 02-03-2006, the Government of Goa hereby alters the limits of the Ports, Tiracol and Talpona and hereby declares the extent of limits of the said ports as follows:—

(a) **Tiracol—On the North:** From the point on the coast in the parallel of latitude 15° 43' 39.0" North, due West along the same parallel point in longitude 73° 34' 00.0" East.

On the West: From the position in latitude 15° 43' 39.0" North and longitude 73° 34' 00.0" East in due South direction to the position in latitude 15° 42' 00.0" North and longitude 73° 34' 00.0" East.

On the South: From the position in latitude 15° 42' 00.0" North and longitude 73° 34' 00.0" East, due East along the parallel latitude 15° 42' 00.0" North to a point where this parallel meets the coast.

On the East: All the tidal waters of river Tiracol falling within the territorial inland waters of the State of Goa.

(b) **Talpona—On the North:** From the point on the coast in the parallel of latitude 15° 01' 36.0" North, due West along the same parallel point in longitude 73° 53' 36.0 East.

On the West: From the position in latitude 15° 01' 36.0" North and longitude 73° 53'

36.0" East in due South direction to the position in latitude 14° 55' 00.0" North and longitude 73° 53' 36.0" East.

On the South: From the position in latitude 14° 55' 00.0" North and longitude 73° 53' 36.0" East, due East along the parallel latitude 14° 55' 00.0" North to a point where this parallel meets the coast.

On the East: All the tidal waters of river Talpona and river Galgibag.

The above mentioned limits shall include all wharves and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good Government of the port and its approaches, whether within or without high water mark, and subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high water mark.

By order and in the name of the Governor of Goa.

Capt. James Braganza, Captain & ex officio Joint Secretary (Ports).

Panaji, 12th August, 2010.



Department of Personnel

Notification

1/25/86-PER (P.F. I)

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, and in supersession of the Recruitment Rules for the post of Sales Tax Officer notified vide Government Notification No. 1/17/78-PER dated 12-9-1986 and published in the Official Gazette Series I No. 31 dated 30-10-1986, the Governor of Goa hereby makes the following rules to regulate the recruitment to the Goa General Service, Group 'B', Gazetted, Non-Ministerial post in the Commercial Tax Department, Government of Goa, namely:—

1. Short title, application and commencement.— (1) These rules may be called the Government of Goa, Commercial Tax Department, Group 'B', Gazetted, Non-Ministerial post, Recruitment Rules, 2010.

(2) They shall apply to the post specified in column (1) of the Schedule to these rules (hereinafter called as the "said Schedule").

(3) They shall come into force from the date of their publication in the Official Gazette.

2. Number, classification and scale of pay.— The number of posts, classification of the said post and the scale of pay attached thereto shall be as specified in columns (2) to (4) of the said Schedule:

Provided that the Government may vary the number of posts specified in column (2) of the said Schedule from time to time subject to exigencies of work.

3. Method of recruitment, age limit and other qualifications.— The method of recruitment to the said post, age limit, qualifications and other matters connected therewith shall be as specified in columns (5) to (13) of the said Schedule.

4. Disqualification.— No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service:

Provided that the Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax.— Where, the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, and in consultation with the Goa Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons.

6. Saving.— Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for Scheduled Castes and other special categories of persons in accordance with the orders issued by the Government from time to time in that regard.

These rules are issued in consultation with the Goa Public Service Commission conveyed vide its letter No. COM/II/13/43(1)/2010/1337 dated 2-8-2010.

By order and in the name of the Governor of Goa.

Yetindra M. Maralkar, Joint Secretary (Personnel).

Porvorim, 9th August, 2010.

SCHEDULE

Name/ Designation of post	Number of posts	Classification of pay	Scale of pay	Whether selection post or non- selection post	Age limit for direct recruits	Whether the benefit of added years of service is admissible under Rule 30 of CCS (Pension) Rules, 1972	Whether age & educational qualifications prescribed for the direct recruits will apply in the case of promotees	Period of proba- tion, if any	Method of recruitment, whether by direct recruitment or by promotion or by deputation/ transfer/contract and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/ deputation/ transfer, grades from which promotion/ deputation/ transfer is to be made	If a D.P.C. exists, what is its compo- sition	Circum- stances in which the Goa Public Service Commission is to be consulted in making recruitment	
1	2	3	4	5	6	6(a)	7	8	9	10	11	12	13
Commercial Tax Officer. to varia- tion depen- dent on work- load).	21 (2010)	Goa General Service, Non- Mini- sterial, Group 'B', Gazet- ted.	Rs. 9300- 34800 + Grade Pay Rs. 4600/-.	Selec- tion. exceeding 40 years (Relaxable for Gov- ernment servants upto 5 years in accor- dance with the instruc- tions or orders issued by the Gov- ernment from time to time).	Not exceeding 40 years (Relaxable for Gov- ernment servants upto 5 years in accor- dance with the instruc- tions or orders issued by the Gov- ernment from time to time).	No. Essential: (i) Degree of a re- cognized Univer- sity or equivalent, preferably in Co- mmerce or Eco- nomics. (ii) Associate Membership of the Institute of Chartered Ac- countants OR 3 years experience in commercial accounts in a Government or a Semi-Government Organisation or in a Commercial or Banking firm or in a firm of Char- tered Account- ants.	Age: No. Educa- tional Qualifi- cations: No.	Two years. Note: The direct recruits shall have to pass the Depart- mental exami- nation during proba- tion period/ exten- ded proba- tion period.	(i) 50% by promotion, failing which, by transfer on deputation and failing both, by direct recruitment. (ii) 50% by direct recruit- ment, failing which, by transfer on deputation.	Promotion: Assistant Commercial Tax Officer/Assistant Entertainment Tax Officer with 3 years regular service in the grade and have passed the depart- mental examination. Transfer on deputa- tion: Officers under the Central/State Governments and Union Territories:- (a) (i) holding analo- gous posts; or (ii) with 3 years regular service in posts in the pay scale of Rs. 9300- 34800 + Grade Pay Rs. 4200/- or equivalent; or (iii) with 8 years regular service in posts in pay scale of Rs. 5200-20200 + Grade Pay Rs. 2800/- or equivalent; and	Group 'B' D.P.C. consisting of— (1) Chairman/ Member of the Goa Pub- lic Service Commission confirmation and selecting an officer for appointment on transfer on deputa- tion and for amending/ relaxing any of the pro- visions of these rules.	Consultation with the Goa Public Service Commission is necessary for making direct recruitment, promotion, confirmation and selecting an officer for appointment on transfer on deputa- tion and for amending/ relaxing any of the pro- visions of these rules.	

1	2	3	4	5	6	6(a)	7	8	9	10	11	12	13
							<p>Note: In case of non-availability of a suitable candidate with the knowledge of Konkani, this requirement can be relaxed.</p> <p>Desirable:</p> <p>(i) Degree in Law of a recognized University or equivalent.</p> <p>(ii) Knowledge of Marathi.</p>				<p>(b) possessing the educational qualifications and experience prescribed for direct recruits under Column (7).</p> <p>(The departmental officers in the feeder category who are in the direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion. Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization/department shall ordinarily not exceed 3 years.</p>		

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